



**Town of Westford  
PLANNING BOARD**

Town Hall  
55 Main Street  
Westford, Massachusetts 01886  
(978) 692-5524 · Fax: (978) 399-2732

**Revised MEETING AGENDA**

**Monday, January 26, 2015**

**7:00 PM Meeting**

**Blanchard Middle School Auditorium**

**14 West Street, Westford, MA 01886**

**7:00 PM**

**Executive Session**

To discuss strategy with respect to litigation, related to Newport Materials, LLC, vs. Planning Board of Westford, et al., as an open meeting may have a detrimental effect on the bargaining or litigation position of the town.

**7:30 PM**

**Open Forum**

**7:35 PM**

**PB 1504 SPR/SP MCP/SP WRPOD/SP under 9.3/SWM - 20 Commerce Way (also known as 540 Groton Road) (Newport Materials LLC and 540 Groton Road LLC)**

*Public hearing for a Site Plan Review (Section 9.4 of the Zoning Bylaw), a Special Permit for a Major Commercial Project (Table of Principal Use Regulations and Section 9.3A), a Special Permit for storage of hazardous materials within the Water Resources Protection Overlay District, Section 8.1) a Special Permit (Section 9.3), and a Stormwater Management Permit (under Chapter 147 of the Town of Westford General Bylaws) in order to construct an asphalt manufacturing facility and associated materials stockpile yard with a 10,000 gallon tank for storage of #2 fuel oil. The applicant seeks the above permits and any other permit or relief as may be required under the Town of Westford Zoning Bylaw and as may be required by the Decision issued by Land Court 10 MISC 429867. The subject property is identified as Assessor's Map 048 Parcel 0011 Lot 0234 and is within the Industrial A Zoning District.*

These applications are being considered by the Planning Board on remand from Land Court in accordance with a Decision issued on December 8, 2014, as modified on January 6, 2015, in the case Newport Materials, et al v. Planning Board of Westford, et al. 10 MISC 429867.

Materials related to these applications and the Land Court decisions can be found on the Planning Board's Web Page under the tab "Asphalt Plant" at:  
[http://www.westfordma.gov/pages/government/towndepartments/boardsandcommittees/WestfordMA\\_planning/index](http://www.westfordma.gov/pages/government/towndepartments/boardsandcommittees/WestfordMA_planning/index)

*Continued From: January 21, 2015*

If any member of the public wishing to attend this meeting seeks special accommodations in accordance with the Americans with Disabilities Act, please contact Victoria Johnson at 978-692-5524 or email to [vjohnson@westfordma.gov](mailto:vjohnson@westfordma.gov).



**Planning Board  
Town of Westford**  
55 Main Street  
Westford, MA 01886  
Tel: 978 692 5524  
Fax: 978 399 2732

**January 26, 2015 Planning Board Packet Materials**

1. Planning Board Agenda
2. Public Correspondence received as of 1/22/15
3. Selected Materials from 2009 – 2010 Planning Board hearings GENERAL CONTENT
  - a. Bituminous Asphalt Manufacturing Process
  - b. April 15, 2009 memo from Police Chief Thomas McEnaney
  - c. May 20, 2009 memo from Eric Fahle, Chair Conservation Commission
  - d. June 15, 2009 memo from Planning Board members Fred Palmer and Kevin Borselli, about site visit to Portsmouth, NH asphalt plant
  - e. July 16, 2009 letter from Doug Deschenes regarding comments from Chelmsford residents and Chelmsford Board of Selectmen
  - f. July 16, 2009 responses to questions. Author unknown but appears to be from applicant
  - g. July 20, 2009 memo from Planning board member Dennis Galvin regarding site visit to Portsmouth, NH asphalt plant
  - h. July 31, 2009 letter from LandTech Consultants in response to Woodard and Curran peer review
  - i. October 30, 2009 letter from LandTech Consultants in response to Woodard and Curran peer review
  - j. October 30, 2009 letter from Doug Deschenes answering questions raised at earlier public hearing
  - k. November 25, 2009 letter from Woodard and Curran Site Plan Review Letter #3
  - l. December 11, 2009 letter from Doug Deschenes regarding current uses on the site
  - m. January 13, 2010 letter from Alicia Barton McDevitt, Assistant Secretary Executive Office of Energy and Environmental Affairs regarding petition for Fail-Safe Review
  - n. March 18, 2010 letter from Doug Deschenes in response to questions from resident Don Boesel
  - o. March 18, 2010 letter from Doug Deschenes in regarding mitigation

## **Public Comments**

Received up to January 22, 2015

20 Commerce Way / 540 Groton Road

Asphalt Plant

Planning Board public hearing process

Printed by: **Jeffrey Morrisette**  
Title: **Asphalt Plant : Westford**

①  
Monday, January 05, 2015 8:39:18 A  
Page 1 of

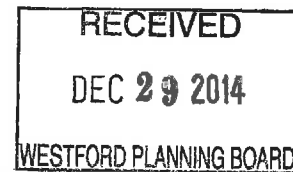
From:  "Steve Pic" <sjp3@verizon.net>

Monday, December 29, 2014 10:48:51 AM



Subject: Asphalt Plant

To:  **Jeffrey Morrisette**



Attachments:  Attach0.html / Uploaded File (3K)  
 asphalt plant12292014\_0000.jpg / Uploaded File (943K)

In light of the recent court opinion, I shall with you my thoughts as they were written four years ago.

Regards,

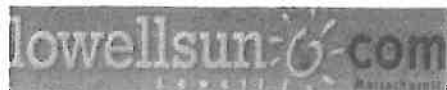
Steve Picc

13 Doris Road

Westford, Ma 01886

## Asphalt plant would change the character of Westford - Lowell Sun Online

Page 1 of 1



## Asphalt plant would change the character of Westford

The Lowell Sun

Updated: 03/26/2010 06:35:34 AM EDT

I have lived in the Nabnasset area of Westford for the past 30 years and have seen the changes on Route 40.

At one time you could drive from Route 3 to Oak Hill Road and not spot a single business with the exception of Fletcher's Quarry.

Yes, things have changed with the net result being a local hardware store, a market, a bank and several child-care facilities. These businesses provide services to the local residents and do not create noise, smoke and heavy truck traffic.

In common-sense terms, why would anyone want to disrupt this local character with an asphalt plant?

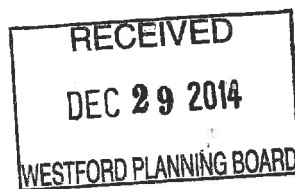
This is Westford, where the town is recognized for the excellence it brings to the residents. Please do not let it get tarnished with an industry that is not light manufacturing but more of heavy industry with more truck traffic (trucks make lots of noise) and the unknown exposure of air particles that will be generated into the air.

The consultants who have modeled all the sound and particle projections are basing outcomes from other communities that have a similar facility and truck traffic. Have you driven through those areas where these plants are located? Is it quiet? Is it pleasing to the eye? Would you want to spend a day having lunch overlooking the traffic and the plants?

I urge the Planning Board to use common sense in the voting decision of the proposed Newport Materials Plant on Route 40 in Westford. The residents will stand behind you if you do.

STEVE PIEC

Westford



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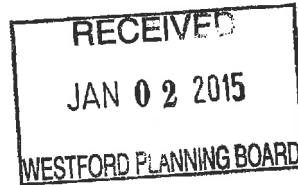
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2

Route 40 Clean Air Coalition  
P.O. Box 1240  
Westford, MA 01886  
[route40cleanaircoalition@gmail.com](mailto:route40cleanaircoalition@gmail.com)

January 2, 2014



Westford Planning Board  
55 Main Street  
Westford, MA 01886

Dear Mr. Green and Members of the Board,

It has come to our attention the Land Court issued a decision in the Newport vs. Town of Westford case (10 MISC 429867) on December 8, 2014. While upholding the Planning Board's 2010 denial, the court provides a roadmap for Newport to submit a modified site plan by January 5, and apparently expects Westford to fast-track approval as "Light Manufacturing" in just four weeks after submission.




As you know, the Route 40 Clean Air Coalition is a loosely-organized group of concerned Westford and Chelmsford residents who mobilized in 2009 to voice concerns over the proposed asphalt manufacturing facility at 540 Groton Road. We are deeply concerned about this ruling, as well as the expedited schedule imposed by the court, which may jeopardize residents' ability to adequately participate in the public process.


The right to petition is constitutionally guaranteed, and, in Massachusetts, has been further secured by adoption of the provisions of G.L. c.231, Section 59H, a statute prohibiting strategic litigation intended to limit or preclude public participation in governmental processes.

The Town of Westford has shown a strong commitment to open government, ensuring compliance with laws that govern open meetings and access to public records. We appreciate the past and present actions of the Planning Board in welcoming public participation. In light of the constraints imposed by the court's recent ruling, it is our hope the board will remain committed to afford us our rights to due process.

Thank you.

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From:  Sanjana Lokhande <alishalokhande@yahoo.com> Sun, Jan 11, 2015 12:51:38 PM   
Subject: Newport asphalt plant  
To:  **Jeffrey Morrisette**

Attachments:  Attach0.html / Uploaded File (3K)

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Dear members of the planning board,

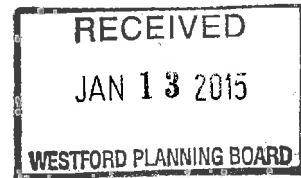
I am a resident of Westford since 2006, I have enjoyed living in this town because of the great community and excellent school system. I wish that all Westford residents feel the same. In 2009 we learned about the Asphalt plant being put up very close to where we live and that, stirred up panic in our neighborhood because this would have caused health hazard as well as reduce the value of our property.

I am very thankful to our planning board for all the work they have done to prevent Newport from setting up the manufacturing plant and supporting the westford residents. Today I am a very concerned resident due to the ruling given by the judge, because from what I understand is that Newport will be successful in putting up the asphalt plant by making a few changes. I will continue to support the planning board to protect our families and fellow residents of Westford and Chemsford.

Your's sincerely,

Sanjana lokhande  
8 sweetwood circle

Westford, MA 01886  
978-392-0063



**BOARD OF SELECTMEN**

**Town Offices**

**50 Billerica Road**

**Chelmsford, MA 01824-2777**

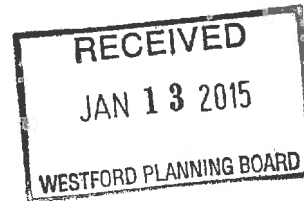
**(978) 250-5201 FAX: (978) 250-5252**

Patricia Wojtas, Chairman  
Janet Askenburg, Vice Chairman  
Robert P. Joyce, Clerk

George R. Dixon, Jr.  
Matthew Hanson

January 6, 2015

Westford Planning Board  
Westford, MA



Dear Members of the Westford Planning Board:

At our meeting of January 5, 2015, the Chelmsford Board of Selectmen discussed the recent Land Court decision regarding the application by Newport Materials for an asphalt plant on Route 40, near the Chelmsford/Westford town line.

We understand that the Land Court has remanded the project back to the Planning Board, requiring an expedited decision on your part. We encourage you to sustain the vote taken in 2009, and deny this permit.

This board has submitted letters in the past, stating our objections. At this time, we want to reiterate those concerns, which include potential impacts to the local environment, air quality, our aquifers, impacts to property values, public health, traffic safety, increased health impacts, odors and noise levels of truck traffic, and maintenance of roads.


As in the past, and as schedules permit, members of our Board, and other municipal staff, will attend meetings and hearings related to this project. If any further information is needed from us, please let us know.


Sincerely,

Pat Wojtas  
Chairman, Board of Selectmen

cc: Westford Board of Selectmen  
Paul Cohen, Chelmsford Town Manager  
Jodi Ross, Westford Town Manager  
Chris Kluchman, Westford Director of Land Use Management  
Route 40 Clean Air Coalition




From:  "Hudson, T. David" <tdh@thetdh.com>  
misc@thetdh.com

Wed, Jan 21, 2015 10:32:48 PM 

Subject: quality of planning-board visits to asphalt plant in Portsmouth

To:  **Jeffrey Morrisette**

Cc:  "Hudson, T.David" <tdh@thetdh.com>



Attachments:  Attach0.html / Uploaded File (3K)


With apologies to General Potemkin (Pah-TYAWM-keen), who never deserved the slanderous term "Potemkin Village":

If the members of Westford's planning board who visited the comparably modern asphalt plant in Portsmouth did so such that the plant operators had advance knowledge, did so at a time when the plant was not in full operation, or did so without marking the wind direction and taking care to make observations a good distance downwind of the plant, their visits would have been utterly incompetent, and their reports should be wholly ignored. And I hope that no such misfeasance underlay the town's stipulation that the proposed plant here would emit no foul odors.

David Hudson  
tdh@thetdh.com  
23 Myrtle Ave.  
Westford, MA 01886


P.S. -- Prevailing wind is from the northwest. Sound is refracted upwards when traveling against the wind. i hope that the town's sound analysis has taken this into account, if, given the background Fletcher noise, it matters.


From:  Angelo Tracanna <angelotracanna@yahoo.com>  
 Angelo Tracanna <angelotracanna@yahoo.com>

Wed, Jan 21, 2015 11:39:58 AM 

Subject: Fw: Westford asphalt plant gets new life

To:  jross@westfordma.gov  **Jeffrey Morrisette**

Cc:  Diane Tracanna <diane.tracanna@gmail.com>

Attachments:  Attach0.html / Uploaded File (9K)

Hi Jodi and Jeff,

Not sure if we will be able to make tonight's meeting on such short notice, but I wanted to make our opinion very clear - we are very much against this company coming to Westford.

Thanks

Angelo & Diane Tracanna

---

Angelo Tracanna  
4 Fawn Road  
978-589-9799  
Email: [angelotracanna@yahoo.com](mailto:angelotracanna@yahoo.com)

----- Forwarded Message -----

**From:** Steve Kapetanakis <skapeta@gmail.com>  
**To:** owners@lakesidemeadows.com  
**Sent:** Wednesday, January 21, 2015 10:27 AM  
**Subject:** Westford asphalt plant gets new life

**Planning Board public hearing tonight – 21-Jan-2015 –  
7:30pm at Blanchard Middle School**

## Westford asphalt plant gets new life with ruling

By Hiroko Sato, [hsato@lowellsun.com](mailto:hsato@lowellsun.com)  
Updated: 01/11/2015 06:36:25 AM EST

WESTFORD -- A controversial proposal for an asphalt plant on Route 40, rejected by the Planning Board in 2010, has been revived by a state Land Court ruling that allows the plan to be resubmitted.

The Planning Board in April 2010 refused to grant special permits and a site plan review to Newport Materials LLC and 540 Groton LLC for a plant adjacent to the Fletcher quarry at 540 Groton Road. The board ruled the plant was not "light manufacturing," which zoning bylaws allow, so the board did not have jurisdiction.

Newport Materials and 540 Groton sued. Justice Alexander Sands ruled on Dec. 8 that the board's denial of special permits and a site plan review was "proper." At the same time, Sands wrote that Newport should be allowed to resubmit its plan, in accordance with the court's directives.

"We are pleased with the ruling. We are pleased that we have a chance to resubmit the application and have it judged on its merits," Newport Materials spokesman Scott Tranchemontagne said Friday.

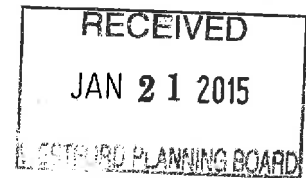
Town Manager Jodi Ross and Planning Director Jeffrey Morrisette were not available for comment.

The ruling gave Newport Materials four weeks to file a modified plan, and the board another four weeks to decide on the application. The Planning Board has scheduled a public hearing at 7:30 p.m. on Wednesday, Jan. 21, at Blanchard Middle School.

Newport Materials first proposed to construct the asphalt manufacturing facility in 2009 on two acres of the 115.

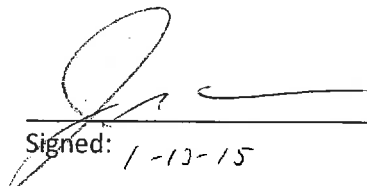
Read more:

[http://www.lowellsun.com/todaysheadlines/ci\\_27299530/westford-asphalt-plant-gets-new-life-ruling#ixzz3PTCKbMUH](http://www.lowellsun.com/todaysheadlines/ci_27299530/westford-asphalt-plant-gets-new-life-ruling#ixzz3PTCKbMUH)





To Whom it May Concern,

I am an abutter to the property located 540 Groton Road. I have reviewed the applications and materials filed with the Planning Board and Zoning Board on January 5, 2015, and have no issues with the proposed Project. Furthermore, I have no issues with the potential sound that the Project may create. I support the granting of the requested permits including, the waiver of the sound attenuation barrier along my property line.

  
Signed: 1-13-15  
J. G. McCallister

From:  mjerzylo@comcast.net  
Subject: Planning Board Meeting 01/21  
To:  Jeffrey Morrisette  
Cc:  cjerzylo@comcast.net

Thursday, January 22, 2015 11:47:09 AM 

Attachments:  Attach0.html / Uploaded File (6K)

Hi Jeff:

I attended the Planning Board meeting last night with regards to Newport.

I thought both sides did a good job presenting the data.

I am trying to get answers and I am hoping you can help.

***Can Newport prevail in their case BEFORE the Town signs off on Newport's transportation plan?***

I have grave concerns about the amount of truck traffic (including use of air brakes), smell of the asphalt being transported, wear and tear on RT 40 (I live on Fernwood Drive) etc etc.

I am hoping that these items will be addressed in the transportation plan, but as of last night Newport's Consul intimated that the 'plan was coming but no date set yet'. To me (at least), Newport would seem to want hold that plan off till the last possible moment as I am pretty sure it has a LOT of data that residents will not like or accept.

I realize that the Planning Board only has till the end of March (I think) to render a decision of the phase we are in now.

I pray that the transportation plan has to play into the Board's decision on how to proceed.

Any help/guidance Appreciated...

Thanks,

Mike Jerzylo  
4 Fernwood Drive

508-243-8784

## **2009-2010 Materials**

20 Commerce Way / 540 Groton Road

Asphalt Plant

Planning Board public hearing process

March 2009  
File

### The Bituminous Asphalt Manufacturing Process

Various sizes of crushed stone and sand (natural aggregate including 3/4" - 1/2" - 3/8" sizes) are loaded individually by size into feed bins (typically 4-6 different feed bins). Each feed bin has a volume feeder that is controlled by a computer system. The computer system has a pre-loaded recipe for the type of bituminous cement desired and tells the belt feeders how much material to feed onto a collecting belt on its way to the drying and mixing portion of the plant.

The proportioned natural stone and sand is delivered via the conveyor belt scale for weight verification and then into a sealed rotary dryer where the stone and sand is dried and heated. It is necessary for the stone and sand to be dry so that the asphaltic cement will adhere to the aggregate surfaces. The rotary dryer has a drying section where drying flights cascade and move the aggregate through the mixing zone (approximately 2/3<sup>rd</sup> of the length of the dryer). As the aggregate leaves the drying zone (at a temperature of approximately 300 degrees), it enters a mixing area where liquid asphaltic cement is sprayed into the dryer coating the dried stone, sand and recycled crushed pavement (RAP) is added.

As the combined stone, sand, RAP and asphaltic cement moves towards the discharge of the dryer, the material is tumbled and mixed to specification requirements. The mixed material, the end product (bituminous concrete), is then discharged from the dryer into a sealed elevator called the drag slat conveyor. The product is elevated to the top of storage silos and the finished product is held in these storage vessels until loaded into delivery trucks that drive under each silo. Material stored is in for customer orders and is there in waiting for load-out (not stored as inventory).

There is no by-product or liquid discharge from the process. Aggregate goes in one end and finished product comes out the other. The rotary dryer has a multi-fuel, high efficiency and low emission burner (BACT) that produces the heat to dry and the heat to keep the end product workable (once cooled as on the road or in a driveway, it becomes hard material). A dust collection system ventilates the rotary dryer of all dust generated and/or created by the drying or mixing process. The dust collection system is called a baghouse and is also BACT for emissions and collection of dust to 99.99% percent efficiency (mandated by DEP/EPA). Liquid asphaltic cement is stored in heated tanks with engineered environmental containment areas (licensed by the MA Dept of Public Safety and your local fire dept), and is kept hot to remain pumpable and fluid (when cold it is hard).

Fuel for the burner, if oil, will be also stored in tanks within the containment area. Asphaltic cement and fuel (unless Natural gas) is trucked onto the site for transfer into storage tanks. The entire process is highly automated/computerized and there are many devices controlling and monitoring the process with full recordation and verification of what the process is doing and has done.

5-2



**Westford Police  
Department**

RECEIVED

MAY 04 2009

WESTFORD PLANNING BOARD

# Memo

**To:** Ross Altobelli  
**From:** Chief Thomas McEnaney  
**Date:** 4/15/09  
**Re:** 454 Groton Road Asphalt plant

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The increase in commercial vehicle truck traffic over the last several years is a major concern to me.

These large/overweight trucks do an enormous amount of damage to our local roads and bridges.

A current example of this is the Boston Rd/Littleton Rd intersection. The permanent damage done to the road surface by these trucks at this intersection is readily apparent. The road surface is now extremely bumpy and uneven.

Many of the large trucks using this intersection are going to and coming from the asphalt plant in Chelmsford located off of Littleton Rd.

The Town of Chelmsford has set regulations prohibiting these trucks from using the Chelmsford center. These trucks must now enter and exit Rte 495 at Boston Rd.

In speaking with several other Police Chiefs about large/overweight trucks issues, their most successful approach to this problem has been through the creation of a commercial vehicle enforcement unit within their department. These trained officers are equipped with the necessary tools to inspect commercial vehicles for equipment and safety violations.

I would certainly support the creation of a specialized commercial vehicle inspection unit within this department, but I am currently restricted due to



recent budgetary concern. The number of large/overweight trucks number will only increase in the near to distant future posing an ever increase risk to public safety.

*TMM*



**TOWN OF WESTFORD  
CONSERVATION COMMISSION**

**TOWN HALL  
55 Main Street  
Westford, Massachusetts 01886**



May 20, 2009

TO: Planning Board, Michael Green, Chair ✓

FROM: Eric Fahle, Chair

RE: Request for Comments, Proposed Asphalt Manufacturing Facility, 540 Groton Road

cc: Norman Khumalo, Assistant Town Manager  
Ross Altobelli, Town Planner  
Newport Materials, LLC  
540 Groton Road, LLC  
Landtech Consultants, Inc.  
Atty. Douglas Deschenes

The Conservation Commission discussed the above referenced project at its meeting of May 13, 2009 and has the following comments:

It is noted that some of the erosion/sedimentation control line is located within the 100 foot buffer to wetlands, which would seem to indicate that some of the project would be within Commission jurisdiction and would require a filing. However, Project Engineer Chris Lorrain of Landtech Consultants, who was at the meeting, indicated that was not the intention, and that the work limit control line would be revised on the plan. He indicated it is the intention that all work would be located more than 100 feet from all wetlands. In that case no filing with the Commission would be required.

It is noted that contaminated materials could be used in the manufacturing process, and all necessary steps should be taken to assure they are properly controlled onsite and that necessary containment measures are taken to assure no contamination is released either to groundwater or via overland flow.

It is noted that there is currently a permit for onsite processing of asphalt, brick and concrete and it is anticipated that this will continue and will be a source of some of the aggregate to be used in the manufacturing process. It is important that proper oversight

...continued



**TOWN OF WESTFORD  
CONSERVATION COMMISSION**

**TOWN HALL  
55 Main Street  
Westford, Massachusetts 01886**

(Planning Board re: Proposed Asphalt Plant, 540 Groton Rd., 5-20-09, pg. 2)

and inspection is given to this material as it comes onto the site to assure that the program is in compliance with DEP regulations.

The Commission is also concerned about the potential for environmental contamination in the event of a fire at the facility. Water would not seem to be the appropriate medium for fighting an oil based fire. Are there provisions for special fire fighting media such as foam to be available on site? In the event a fire should breach the petroleum product containment or conveyance pipes resulting in an uncontained spill, what back up measures are in place to limit the spread of contamination, particularly if water is used as part of the suppression effort? The Planning Board should consider a requirement to have plugs available to close up the outlets from the proposed detention ponds so that any potential contamination would be caught and held without being discharged to the wetlands.

302  
**To:** Planning Board Members

**From:** K. Borselli & F. C. Palmer

**Subject:** Tour of Pike Industries and Surrounding Facilities/Area (Rev. doc)  
650 Peverly Hill Road  
Portsmouth, NH  
June 15, 2009

**Attendees:** Ross Altobelli, Paul Starratt, Darren MacCaughey, Zac Cataldo, Newport Materials Reps (Rick, Matt, Jeff, Les, Doug Deschenes, Melissa Robbins and Chris Lorain), Kevin Borselli and Fred Palmer

**Summary:** During our tour of the Pike Industries asphalt manufacturing facility and surrounding areas we observed no odors, dust or noise (other than during a loading operation and direct truck drive by-see below). Neighbors we met with voiced no concerns or issues

**Discussion:** Since other members of the Board were unable to visit the tour of Pike Industries and the surrounding area, we wanted to briefly cover our observations. We started at Pike Industries observing their operations just off their property. According to Newport Materials, they plan to use similar asphalt making equipment at their proposed facility in Westford.

The van we were in did drive through the Pike facility, but we did not get out as this is private property. When a truck was being loaded via a silo we heard noise while standing about 150 ft or so away. Other than that we heard only low conveyor belt noises which were less than the sound of the truck pulling out of the loading bay. During the entire visit to and around Pike Industries we did not notice any smell except when passed by a truck loaded with asphalt on the way out of the facility. And that smell only lasted for a brief few moments. The van was also driven to the leeward side of the plant and no odors were observed there either.

Following this we visited three surrounding facilities (picked at our choosing) in the general neighborhood to solicit any input they might have about Pike's operations.

- 1) **Urban Forestry Center**, 45 Elwyn Rd. (~2800 ft). We spoke with an office worker who had no observations of the Pike facility, but she directed us to speak with the grounds keeper, Norman. Norman actually lives on the property. His only comment was that sometimes in the morning when there is an off-shore wind he can smell an odor which he attributes to the Pike facility though he said it did not smell like asphalt. We did not inquire when this occurred so don't know if it was less than two years ago when Pike renovated their facility with upgraded equipment.

- 2) **Portsmouth DPW**, 680 Peverly Hill Road (~200ft.). We spoke with Steve Parkinson, Supt of the DPW. This facility is right next door to Pike's. Steve said that since Pike's upgraded their equipment he hears no noise or notices any smells which used to be common with the older equipment.
- 3) **Kinder Care**, 72 Mirona Road (~900 ft.). We spoke to reception lady who had worked at the center since it opened four years ago. She said that they don't even know that Pike's. (which is almost directly across the road) was there Another lady who had been there for about two years had no concerns about their proximity and indicated that there was no noise or smell issues. Further, they have not had any complaints from parents of the children who attend their preschool.

In addition to these three neighbors, the applicant provided us with a letter from the Executive Director of the Seacoast YMCA (~1600 ft away) stating that Pike Industries does not create a nuisance to either their employees or members and no member has filed any complaints concerning their operations.

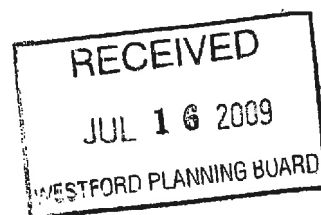
DESCHENES & FARRELL, P.C.

Attorneys at Law  
The Fiske House at Central Square  
One Billerica Road

Chelmsford, MA 01824-3010

Telephone: (978) 250-8877

Facsimile: (978) 250-0057



*Douglas C. Deschenes  
Kathryn Lorah Farrell*

*Anthony J. Natola  
Julie A. McNeill  
Melissa E. Robbins  
Kevin S. Eriksen  
Of Counsel:  
Natasha Ramsingh\*  
\*Licensed in FL & MA*

July 16, 2009

Westford Planning Board  
55 Main Street  
Westford, MA 01886  
Attn: Ross Altobelli

**RE: 540 Groton Road  
Proposed Asphalt Facility**

Dear Ross and Members of the Board,

As you are aware this office represents 540 Groton Road, LLC and Newport Materials regarding their proposed asphalt facility at 540 Groton Road. We are in receipt of a letter from the Chelmsford Board of Selectmen dated June 8, 2009 where the Board raises the concerns of the Town of Chelmsford and Chelmsford abutters regarding the proposed facility and makes suggested considerations to be incorporated into the decision if the permit were ultimately granted by the Town of Westford Planning Board. The applicant would like to take this opportunity to respond the same, and will do so in the order raised in the letter from the Board of Selectmen.

Concerns of residents and the Board relating to "broad categories"

1. Air quality and impact to health of any particulate matter generated by the operation of the plant, trucks and equipment, and exhaust from trucks.

A- To address air quality and emissions including particulate matter from the operation of the facility, the system has been designed to employ Best Available Control Technology (BACT). The system was designed and simulated in conformance with requirements set forth by the Commonwealth of Massachusetts for an Air Permit under the Clean Air Act. A submission to the Commonwealth of Massachusetts Department of Environmental Protection for an Air Permit for the proposed facility is currently pending, and is also being reviewed by the Town of Westford's independent consultant. The emissions from the facility were simulated using EPA-approved models and procedures. These emissions include the so-called criteria pollutants such as particulate matter, nitrogen oxides, sulfur dioxide, and carbon monoxide, as well as non-criteria pollutants such as metals and hydrocarbons. The emission rates of these pollutants are relatively small and meet all applicable emission limits. The concentrations of the emissions were predicted at over 1600 locations from the

property boundary to a distance of about 3 miles from the facility (including areas in Chelmsford). The predicted air quality concentrations from the facility emissions were below the National Ambient Air Quality Standards (NAAQS), the Massachusetts Threshold Effects Exposure Limits (TELs) and Massachusetts Allowable Ambient Limits (AALs). These air quality limits were designed by EPA and the DEP to protect the health of all residents, including children and those individuals at high-risk. The highest 24-hour averaged concentrations, which conservatively assumed round-the-clock operation were predicted to be located in the quarry about 1100 feet southwest of the stack and were determined to be at safe levels. The highest annual average concentrations, which are also at safe levels, were predicted to occur at three locations; (1) in the quarry, 1000 feet west of the stack, (2) about 1200 northeast of the stack on the property line with Route 3, and (3) 1450 feet east-southeast of the stack in the area west of Route 3 and east of the parking area at the northern end of Ward Way. With regard to fugitive emissions for the processing operation and the proposed facility attached please find a letter from Christine Gibbons of Engineering Technologies Group, Inc. addressing the same. As to the mobile source emissions all trucks are required by State law to pass emissions tests yearly in order to have a valid license and all new diesel trucks also have "scrubbers" which clean the emissions that come from the burning of diesel fuel. Furthermore, the number of trucks associated with the proposed plant is insubstantial relative to existing traffic, current activity on the site and prior uses on the site. The expected truck traffic to be generated by the plant is 75 trucks (150 vehicle trips) per day. Route 40 currently handles approximately 13,200 vehicle trips per day while Route 3 handles over 86,000 trips per day. An independent review by the consultant for the Westford Board of Health concluded that there would be no health risk associated with the plant or the truck traffic associated therewith.

2. The current requirement, per posted signage, that truck traffic from the entire site turn left toward Chelmsford when exiting the plant.

A- The traffic study completed by the Applicant's consultant and currently being reviewed by the Town of Westford's consultant indicates that Route 40 services approximately 13,200 vehicle trips a day. The traffic study also shows that the vast majority of the trucks leaving the facility will turn left to access Route 3. The proposed facility will create approximately a 1% increase in traffic. Although the project will not have a significant impact to traffic on the roadway, the Applicant is proposing to work in partnership with the Westford and Chelmsford Police Departments in order to organize and maintain a truck team to monitor and test trucks.

In practice, the Westford Police department has recognized that a number of drivers turn right to access the Dunkin Donuts facility located at the intersection of Route-40 and Oak Hill Road. Because of the lack of adequate parking and turning opportunities for large trucks, the Westford Police Department feels that this creates an unsafe situation. Therefore, in order to address the concern, at least as it relates to truck traffic leaving 540 Groton Road, the owner of the site has posted the site and informed its drivers not to turn right.

Furthermore, the Zoning Board of Appeals when issuing the permit for the rock crushing facility already operating on the property conditioned the permit such that the signage must be posted in order to address the concerns at the Oak Hill Road and Route 40 intersection.

3. The impact on truck noise, including the potential of "Jake" brakes as trucks make use of the ramp from Route 3 at Route 40 of any hour of day or night.

A- After meeting recently with neighbors on Groton Road, Newport Materials has proactively instituted a zero-tolerance policy which requires all drivers leaving its property to abstain from using "Jake" brakes except in an emergency.

4. The impact of increased truck traffic on local roads.

A- Please refer to the answer of numbers Two (2) and Three (3) above.

5. The proposed unrestricted hours permitting 24/7 operations

A- The facility will produce asphalt sporadically throughout the day and, when necessary, at night. The production schedule is dependent on asphalt orders, however, when the facility is operating during the day, its hours may be from 6:00 a.m. – 6:00 p.m., and when the facility is operating at night, the hours will generally be from 7:00 p.m.- 4:00 a.m. Furthermore, the production of asphalt is limited to the Clean Air Permit from the Commonwealth of Massachusetts which limits the facility's yearly production to 300,000 tons a year prohibiting the facility from operating 24/7, 365 days a year, without an additional permit from the Commonwealth of Massachusetts, and an amendment from the permit from the Town of Westford Planning Board.

6. Odors that may emanate from the plant or the trucks carrying the output (the plant will, of necessity, be operating at times of the year when residents wish to have windows open and retain their right to quiet enjoyment).

A – Given the distance from the facility to the closest abutters (whether in Westford or in Chelmsford) the facility will not have an odor that restrains their right to quiet enjoyment. If at any time any abutter to the facility believes that the odor from the facility has impacted their homes or is a nuisance, they can file a complaint with the Massachusetts DEP who will investigate the same. If the facility has created a nuisance the permit for the facility can be revoked if unable to be remedied.

With respect to the trucks leaving the facility all will be required to have a cover over the asphalt that will shield abutters from some phantom odors.

As to the request by the Chelmsford Board of Selectmen that any reporting information be copied to the Town of Westford, the applicant will agree to the same. As to the other suggested conditions the Applicant shall respond to the same in the order they were raised:

1. The Applicant will agree to the same.



2. The Applicant will agree to the same.
3. The Applicant will agree to the same.
4. The Applicant will agree to the same.
5. After meeting recently with neighbors on Groton Road, Newport Materials has proactively instituted a zero-tolerance policy which requires all drivers leaving its property to securely cover all loads as required by law.
6. The Applicant will agree to control dust on the roadway in accordance with the dust control plan filed with DEP, a description of which is attached along with this letter.
7. The Applicant will agree to the same.
8. The Applicant will agree to the same.
9. After meeting recently with neighbors on Groton Road, Newport Materials has proactively instituted a zero-tolerance policy which requires all drivers leaving its property to abstain from using "Jake" brakes except in an emergency.

-Although masking agents are available to "curb" the odors associated with "the product" those who are adverse to the smell of "the product" may also be adverse to the smell of "the product" with a masking agent, or others may prefer any odor emitted from "the product" over a masking agent. However, in the event that there is a problem regarding odor, Newport Materials will consider using a masking agent.

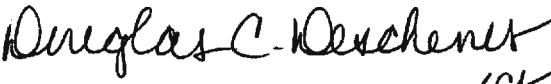
-Newport Materials has already set a zero tolerance policy regarding covering loads when exiting the facility.

-Natural gas will be the primary fuel used for the site, the #2 fuel oil will only be used as a back up in the situation where there is an issue with the natural gas delivery.

Newport Materials is a respected company with many contracts with the Commonwealth of Massachusetts. Newport Materials has been in the business of Heavy Highway Construction for over 9 years. It is unfair to judge a company like Newport Materials based upon prior infractions of other companies in the same industry.

We hope that this fully responds to any and all issues raised by the Chelmsford Board of Selectmen. Thank you for your continued time and attention to this matter.

Sincerely,

  
Douglas C. Deschenes

Enclosures.

cc: Chelmsford BOS

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JUL 16 2009

WESTFORD PLANNING BOARD

1. What do we propose for Emergency Access as we only have a single egress?
  - The Applicant is in the process of finalizing an emergency access plan with the new owners of Fletcher Granite Corporation. The emergency access will allow for an alternative means of access not only for the Applicant but also for the Fletcher Granite Corporation. Our emergency access would connect to the existing road at Fletcher Granite, which already offers egress to Route 40.
2. What type of Containment do we proposed for the Number 2 Fuel Oil and Liquid Asphalt?
  - The concrete containment structure will be designed by an engineer to meet or exceed the State of Massachusetts Building Code. Furthermore the structure will be sized to meet all the requirements for containment systems set forth in the State of Massachusetts Fire Prevention Regulations and in the National Fire Protection Association Code 30.
3. What are the Benefits to the Local Community?
  - Our facility will expand the tax base generated from Industrial Uses. In addition the Applicant will work in partnership with the Westford and Chelmsford Police Departments and the State Police to organize and maintain a "truck team" to oversee and test trucks. The new facility will also create new jobs for the community and contribute asphalt and paving to the Town of Westford on an annual basis.
4. What are the Impacts to the Real Estate Values?
  - There will be no impact to the real estate values as the industrial nature of the site already exists and existed prior to much of the development in the area.
  - Some of the nearest property owners were made aware prior to closing on their homes that Industrial uses, including the processing, blasting and crushing of stone and rock, were on-going and would continue on this parcel. Therefore, the property values of many of the area properties specifically took into consideration that Industrial uses would be maintained on the site and were therefore valued accordingly. In fact, the land in question, as well as much of the surrounding land, has been used for industrial uses since the 1800's. Furthermore, a cement production plant currently operates next door. In addition, Route 3, a major 6-lane highway is approximately 1/3 of a mile away from the proposed Facility. Therefore it is reasonable to assume that local home values have taken the industrial nature of the area into consideration for decades
5. What will be the Impacts to the Groundwater?
  - The operation of our facility will have no impact to the Groundwater in the area. The purpose of the secondary containment system is to eliminate the potential risk of a

fuel tank spill or leak having an impact on the nearby environment. Furthermore, all tanks will be fitted with block valves on all piping which either enters or outlets the containment structure and that the facility's standard operating procedures will include the requirement that these valves be shut whenever the plant is not in operation or not attended by the operator's personnel.

6. Where is the greatest emissions impact?

-The emissions from the facility were simulated using EPA-approved models and procedures. These emissions include the so-called criteria pollutants such as particulate matter, nitrogen oxides, sulfur dioxide, and carbon monoxide, as well as non-criteria pollutants such as metals and hydrocarbons. The emission rates of these pollutants are small and meet all applicable emission limits. The concentrations of the emissions were predicted at over 1600 locations from the property boundary to a distance of about 3 miles from the facility. The predicted air quality concentrations from the facility emissions were below the National Ambient Air Quality Standards (NAAQS), the Massachusetts Threshold Effects Exposure Limits (TELs) and Massachusetts Allowable Ambient Limits (AALs). These air quality limits were designed by EPA and the DEP to protect the health of all residents, including children and those individuals at high-risk. The highest 24-hour averaged concentrations, which conservatively assumed round-the-clock operation, were predicted to be located in the quarry about 1100 feet southwest of the stack and were still at safe levels. The highest annual average concentrations, which are also at safe levels, were predicted to occur at three locations; (1) in the quarry, 1000 feet west of the stack, (2) about 1200 northeast of the stack on the property line with Route 3, and (3) 1450 feet east-southeast of the stack in the area west of Route 3 and east of the parking area at the northern end of Ward Way.

7. What is the additional impact from Trucks with regards to emissions and impact on road surfaces?

-It is our belief that the proposed facility will not have a significant impact to emissions and road surfaces due to the fact that it is being located in a heavily traveled area. Route 40 services approximately 13,200 vehicle trips a day. The proposed facility will create approximately a 1% increase in traffic on Route 40, this addition of 1% of traffic will not have a significant impact on the Roadways. In 2007 the MA DOT conducted a study, which showed that more than 86,000 vehicles per day pass by the area of the proposed facility on Route 3.

Furthermore, all trucks are required by State law to pass emissions tests yearly in order to have a valid license and all new diesel trucks also have "scrubbers" which clean the emissions that come from the burning of diesel fuel.

In addition, the Applicant is proposing to work in partnership with the Westford and Chelmsford Police Departments in order to organize and maintain a truck team to monitor and test trucks.

8. What complaints have been filed for similar facilities in regards to odor, dust emissions?

-In this area, there has been one (1) known complaint regarding the asphalt facility on Littleton Road in Chelmsford. The complaint pertained to dust. Stack emissions were tested as a result of the complaint and it was determined that the emissions were in compliance with the permitted limits. Therefore it is our understanding that the stack emissions were not the cause of the dust accumulation complained of by neighbors.

9. Have there been similar air permits granted for facilities in this area?

- There are no known similar air permits in the Town of Westford itself (in part because the industrial zoning of the 540 Groton Road Site is unique to the area), however there are many facilities along the Route 495 corridor with similar air permits. Similar air permits are required for co-generation plants, large industrial boilers, concrete plants, biotech manufacturing plants and other asphalt facilities.

10. Are there similar uses that create more or similar emissions to the asphalt facility?

- The asphalt facility will be constructed using the best available control technologies. Several asphalt facilities in the area use similar emission control technology. The Keating asphalt facilities in Lunenburg and in Cranston, RI have employed similar technologies and have won the Diamond Achievement Award for operation excellence. Additionally, Pike Industries in Portsmouth NH has recently updated their technology to a facility similar to the one proposed and there is a brand new facility in Pawtucket, RI.

11. What is the accident data for similar GenCor facilities?

- The applicant is not aware of any accidents at similar GenCor facilities.

12. What Chemicals are going to be used in the manufacturing of Asphalt?

- Number Two (#2) Fuel Oil (to be used as a back up in case of any issues with Natural Gas) as well as liquid asphalt

13. To what standard are the storage tanks built?

- Most storage tanks are constructed to the UL 142 specification governing the construction of tanks. The tanks to be installed will be new and meet this construction standard as a minimum requirement.

14. Will the plant have a spill control and clean up plan?

- As stated above, a containment facility for the storage tanks has been proposed. Facilities that store more than 1,320 gallons of oil above ground are required by EPA to prepare and have a copy available on the site of a Spill Prevention, Control and Countermeasure Plan (SPCC Plan). The plan will be prepared prior to startup of the facility. Also, employees on site will be trained to respond appropriately and efficiently in the unlikely event that an accident should occur.

15. What will be the plant's typical hours of operation?

- The facility will produce asphalt sporadically throughout the day and, when necessary, at night. The production schedule is dependent on asphalt orders, however, when the facility is operating during the day, its hours may be from 6:00 a.m. – 6:00 p.m., and when the facility is operating at night, the hours will generally be from 7:00 p.m.- 4:00 a.m.

16. Is the company required to put up money for a "clean up fund" ?

- No. This is not a requirement.

17. Can the noise study be rerun to consider a 50% loss in foliage and/or low cloud cover?

- The noise study was conducted in March at a time when the foliage was not in full bloom. Moreover, the study was conducted according to industry standards, taking into consideration different variables, including weather patterns.

18. How much fuel oil is stored on site at any given time?

- The facility, as proposed, has a 10,000 gallon storage tank for #2 fuel oil, which will be used as an alternative fuel source should there be any issue with the natural gas supply to the site.

19. Can direct access from the plant to Route 3 be created so as to keep trucks off of Route 40?

- Although physical access to Route 3 may be feasible, it would not be legally permissible as Mass Highway and the Federal Highway Administration would not allow an on ramp or off ramp in that location.

20. What type of emissions will there be?

- The emissions for this facility will be well below the standards set by DEP. There will be particulate matter, carbon monoxide, nitrogen oxides, organic compounds, and sulfur dioxide emissions. The particulate matter emissions will be processed through a primary collector (knockout box) and secondary collector (baghouse), which will remove more than 99.9% of the particulate matter emissions. The carbon monoxide and nitrogen oxide emissions will be small due to proper combustion within the fuel burner and the low "NOx" burner selected for this facility. Sulfur dioxide emissions will be insignificant because there is almost no sulfur in natural gas or in the ultra low sulfur fuel oil selected for this site. There will be traces of organic pollutants, although very minor and based on the dispersion model well within the allowed limits. For more detail, please see the clean air permit application (on file with the Town of Westford Planning Department).

21. Will children in the surrounding neighborhood be endangered by the proposed plant?

- No. The proposed asphalt facility will utilize state of the art technology, producing emissions that will be well below safe limits established by State and Federal Regulations so as to not endanger anyone.

22. Will there be any impact to the surrounding wetlands?

- No. A notice of resource area delineation has been completed and approved by Westford and Chelmsford Conservation Commissions. Therefore locations of all wetlands have been verified by both Conservation Commissions. No work proposed for this facility falls within the wetlands or their respective buffer zones. Furthermore, the fuel storage tanks are state-of-the-art storage tanks and will be constructed above ground and located in a containment facility which will provide protection to the environment from the unlikely event that a leak should occur on site.

23. Will the proposed gas line affect the wetlands?

- No. The gas line will be constructed in accordance with the standards and regulations set forth by National Grid, the Massachusetts Wetlands Protection Act and the local Westford Wetland Bylaws. Any necessary permits required from Town Boards/Commission will be applied for prior to construction.

24. What will be the noise impact from the plant?

- The facility has been designed, and will be constructed with, an acoustically-efficient burner that is significantly quieter than previous-generation asphalt plant burners. The baghouse (large air filter) exhaust fan will be equipped with a fan silencer, as specified in Cavanaugh Tocci Associates, Inc. report and MassDEP submittal. Sound barrier berms and/or walls will be constructed at locations to shield conveyer motors and truck unloading locations. As a result of these design and construction features, residential neighbors will not hear the facility from their properties when the facility is operating during the day, and they will not hear the facility in their homes when it is operating at night (even with their windows open). Additionally, the sound study demonstrates that the facility will be compliant with all state and local sound regulations at all times of operation.

25. Will the plant utilize recycled tires as well as asphalt?

- No.

26. Why is there a limit on the amount of asphalt that the plant can produce if production is safe?

- There are different types of permits based on the total annual emission amounts. The emissions are tied to the amount of production. The restriction was established by the applicant because the quantity proposed is believed to be sufficient to satisfy their production projections. The emission(s) amounts associated with the 300,000 TPY production level fall into the Non-Major Comprehensive Plan Approval category of types of air permits with the MassDEP.

27. Is the maximum amount of tonnage set at 300,000 tons or is it possible that the plant would be producing more than that?

- The maximum is set at 300,000 tons per year. Production at a level above the 300,000 tons would require new permits and new applications to MA DEP and Town of Westford Boards and Departments.

28. Has the State Police commercial enforcement unit been contacted to determine whether or not the roads that exist are wide enough and strong enough for the facility?

- The State Police have not been contacted as of yet as the Applicant is still working with the local Police Departments to determine their concerns regarding the facility and their interest in certain training programs. It is our hope that with the coordination of the State Police and the Towns of Westford & Chelmsford Police Departments, through a community directed operation called LEAP (Local Enforcement Assistance Program) that training will be conducted in order to provide the Westford & Chelmsford Police Departments with the tools necessary in order to enforce commercial vehicles' laws and thus ensure public safety.

29. How many trucks will the plant generate per day?

- The facility will create an average of 75 trucks per day on Route 40. This represents a total of 150 truck trips daily, or approximately 1% of the current 13,200 daily vehicle trips on Rt. 40. As of 2007, Rt. 3 experienced 86,000 vehicle trips per day.

30. What measures are there to control dust?

- A primary collector (knockout box) and a secondary collector (baghouse) to control particulate matter emissions from the primary process unit, a top of silo control device to control visible emissions, natural gas and/or ultra low sulfur fuel oil to reduce sulfur dioxide, an ultra low NOx burner with Flue Gas Re-circulating (FGR) system to reduce nitrogen oxides. Sprinkler systems, water trucks, and enforced speed limits in the yard are specified to mitigate fugitive dust from both paved and unpaved roads within the facility. Further, the applicant is proposing the use of a mechanical street sweeper to further reduce fugitive dust from paved roadways.
- Also please see the attached letter from Christine Gibbons from ETG regarding dust control.

31. How will the emissions from the plant be monitored? What does DEP require for testing of these emissions?



-The facility will be required to do an emissions compliance test once it is constructed and operational (within 60 to 180 days of start-up the first season). That test would include certain pollutants, including nitrogen oxides (NOx), carbon monoxide (CO), particulate matter (PM and PM10) and opacity (visible emissions). The facility would be required to repeat that testing every three (3) years.

The facility will be required to regularly perform a "visolite test" on their baghouse. This test will show if there is a broken filter bag or a leaky seal in the baghouse, which would potentially cause a visible emission out of the stack.

32. What percentage of total heavy truck trips per day on Route 40 will be a result of the trucks generated by the plant?

- The facility will create an average of 75 trucks per day on Route 40 which is approximately 1% of the current 13,200 daily vehicle trips on Route 40. The traffic study does not identify the percentage of heavy trucks on Route 40 that will be a result of the vehicle trips generated by the site. We are currently in the process on conducting a truck survey to more fully address this question.

33. Are there any chemical emissions or harmful chemical by-products generated from the vehicles transporting the asphalt?

-There is no known measurable hazardous emissions from hot/cooled asphalt. Furthermore, all trucks are required by State law to pass emissions tests yearly in order to have a valid license and all new diesel trucks also have "scrubbers" which clean the emissions that come from the burning of diesel fuel. Also, EPA addressed these potential emissions in their development of the current AP-42 Emission Factors for Stationary Sources Document. A calculation was made using the EPA prescribed methodology and factors and which correlates with the production restriction for the facility. The results indicate that fugitive emissions that can be associated with trucks traveling from the site ("yard emissions" released from the covered load of hot mix) are extremely low of the order of 5 lbs. year TOC.

34. What is the height of the stack being used at Pike Industries in Portsmouth, NH?

- The applicant is unaware of the exact height of the stack at Pike. Every site is different based on dispersion analysis and regulation.

35. What is the maximum annual production level for Pike Industries?

- The applicant is unaware of the annual production level for Pike Industries however please note that their DEP license allows for 750,000 tons per year.

36. Does the Pike Industries plant recycle and if so, what percentage of their tonnage is derived from recycled asphalt?

- Pikes plant is capable of using recycled asphalt. However, the percentage of use is unknown.

37. Will traffic on Route 40 be disrupted by the facility?

- The traffic study conducted for this site shows that traffic flow and safety on Route 40 will not be negatively impacted by the facility. Furthermore, to decrease truck trips on Route 40, Newport Materials will purchase nearly 50% of production (aggregate) materials directly from the adjacent quarry.

38. What will be the visual impact of the facility?

- The facility will not be visible from Route 40 or from any of the residential abutters' properties. During the winter months, the facility may be visible from Route 3. The highest point of the facility will be 68 feet (lower than the nearby cell tower and much of the granite quarry landscape).

39. How close are residential developments to other established facilities? Where are they located?

- The Pike Industries Portsmouth facility is approximately 1,500' from the nearest residential abutter.

40. The average truck traffic from the proposed Asphalt plant has been reported as 9 trucks per hour. During a presentation by the Company attorney on June 2 it was mentioned that the loading time is about 5 minutes per truck (12 trucks/hour). As per the plant layout in the DEP filing report (page 4 TRC report) - The plant could have four silos. Each of the Silos can be used to load a truck. Assuming 5 minutes per truck - this would be 12 trucks per hour per silo. For four silos - this would be 48 trucks per hour. Is this the maximum truck traffic leaving the facility?

- The plant, as designed, has four (4) silos over two (2) truck scales (2 silos over each truck scale). Only one (1) truck can be loaded on one (1) scale at a time. The purpose for four (4) silos is to allow for different types of asphalt products (i.e. base materials, binder, top, etc.) to be made and stored. The silos are storage vessels and just because they are filled doesn't mean there will be a continuous stream of trucks picking material up. The purpose of two (2) silos over two (2) truck scales is simply to allow larger orders with the same product to be taken from one side, while keeping the other scale open for other materials. More related to inventory and having different products

made to fulfill orders without having to make trucks wait. The estimate of 9 trucks on average is somewhat unrelated to the number of silos. It is how much business is anticipated. Technically, one could conceivably load two (2) trucks at any one time (one on each scale) but it is VERY unlikely that it would ever happen simultaneously over any given hour.

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JUL 20 2009  
WESTFORD PLANNING BOARD

MEMO	
Date	July 20, 2009
To	Westford Planning Board
From	Dennis J. Galvin
Subject	540 Groton Road
Reference	Portsmouth Site Visit

- On Friday July 17, 2009, this member went to Pike Industries in Portsmouth NH and met with Richard DEFELICE of Newport Materials and Chris LORRAINE of Landtech consultants to receive a site orientation regarding an Asphalt manufacturing facility at that location. This orientation began at approximately 10.30A and was completed by noon time.
- The orientation began with a presentation offered by Chris LORRAINE. This presentation was given in a parking lot located approximately 675' from the Asphalt manufacturing facility. At that location I noted the following:
  - I noted low level noise emanating from the operation of the conveyor belt
  - I noted moderate intermittent level noise, resembling a hissing sound, each time a dump truck received a load of asphalt product. The sound was generated from a steam release as the asphalt product was release into the rear bed of the dump truck from its storage bin.
  - I noted a very faint intermittent smell of tar which was apparently attributed to the dump trucks moving in and out of the site.
- LORRAINE presented two aerial photographic maps. One of the maps was that of the Portsmouth plant; the other was that of the prospective Westford plant. Both of the maps denoted distances away from the plant by way of rings. Rings were standard in both drawings and were used to help identify the relative distance of key sites to the plant. Presented below is a comparative listing of each of the key distances as provided by LORRAINE.

Portsmouth	Westford
Comfort Inn 1500'	Scotty Hollow residences 1550'
Dondero School 2750'	Westford Learning 2770'
Water Country 3500'	Rita Edwards School 1500'
YMCA 1600'	Closest resident 1360'
Community Campus Child Care HC 2750'	Closest Greystone resident 3400'
Closest Private residence was 1500'	
Kindercafe 1060'	

- A general description of the layout and operations was provided by Mr DEFELICE. He advised that the operation can produce over 400 tons of asphalt in one hour. However he stated that realistically the output would be closer to 350 tons. He noted that the moisture content was a significant factor in determining whether the capacity of the plant would reach its maximum. The site components were identified as follows:
  - Storage silos
  - Drum mixer
  - Bag house
  - Virgin aggregate storage area
  - Liquid asphalt storage tanks
  - No 2 fuel oil tanks

5. DEFELICE advised that he anticipated that the plant would involve approximately 75 actual truck trips per day. This would include the delivery of product from the plant and the delivery of material to it. He also noted that the "baghouse" component of the plant would capture approximately 99.9% of all emission caused by the heating of the material. This content is directed back to the operation and used. He estimated that approximately .01% of the emissions escapes. It was noted that the Mass Department of Environmental Protection maintains very strict standards for emission and that the specifications for this plant were well within those limits.

6. DEFELICE advised that he was required to undergo a very arduous testing process by DEP. This involved dispersion modeling. It involved a five year look back of 1600 locations which were tested every 3 hours. He advised that there would be a single burner at the Westford site which are designed to burn natural gas. LORRAINE advised that the permit was sought with Mass DEPE utilizing no# 2 fuel in case it had to be utilized for an extended period of time. DEFELICE described the burner as capable of generating 46M BTUs.

6. A theoretical situation was utilized by Mr DEFELICE to describe the plant's operation. He noted the following:

- The operation receives a hypothetical order of 1000 tons of asphalt
- This would require him to run the burner for 3 hours
- Once the product is made he would shut the plant down for the rest of the day.
- He noted that the orders would be received the previous day.
- He further noted that the operation would begin about 6AM to 6.30AM

7. The raw materials necessary for manufacturing the asphalt would come from three sources. These were as follows;

- Available materials located on site 50%
- RAP materials 25%
- Virgin Aggregate material which is transporting into the site 25%

8. DEFELICE indicated that the operation is seasonal. He stated that operations for the year would essentially begin in March and would continue through May. In July and August the operation would go down. The operation would resume in September and go straight through to about Thanksgiving. In rare circumstances operation could extend beyond that. Most paving is ended by Mass Highway around November 15. The plant would operate Monday through Saturday. On Monday through Friday operations could extend to 8.00PM. On Saturdays they would extend to 3.00PM. DEFELICE anticipated that the plant would only run during a few nights.

9. The product on the site was described. The principle product would be binder which would comprise about 60% of all the product manufactured. The least manufactured would be "black" which entailed about 10% of the manufactured product. There were essentially three types of asphalt product manufactured at the site. These were as follows:

- black 1 1/2" to 2" stone
- binder 3/4" stone
- top course 1/4 to 3/8" stone

10. The issue and concern of emissions was further examined. The "baghouse" is the critical element for controlling emissions. The baghouse utilizes filters. Everything being installed at this site will be state of the art filters and baghouse components. The DEP will check these frequently. The DEP checks permits every three years and will investigate any complaints. The plant is subject to shutdown during such checks. It was offered that the applicant would be willing to comply with any special notification requirements that the town might be willing to impose including a 24/7 "hotline" which would immediately notify the Board of Health if something goes wrong with the emissions protection. It was also noted that steam would be emitted into the atmosphere. The steam would be generated from the aggregate being heated.

11. With regard to traffic concerns. All traffic generated from the Westford site would go back toward rte 3. Traffic would be prohibited from taking a right turn on rte 40. Route 3 will be the route of travel for the trucks to their respective deliveries.
12. The scale of operations was discussed. It was revealed that the Pike industries plant was permitted for 700,000 tons of produced asphalt per year. The Westford site would only be permitted for 300,000 tons.
13. Concerns about property values were discussed and no appreciable impact on surrounding property values were offered. It was pointed out that the site in Westford is currently zoned for business so individuals who purchase residential homes in the vicinity are clearly aware of what is nearby them. An issue related to the classification of the industry as "light manufacturing" was also raised. The applicant stated that the Westford building commissioner Matt HAKALA had issued a ruling that the site met the definition of "light manufacturing". Further, the asphalt plant operation fit the definition of "light industry" in the town's by laws.
14. The issue of tax revenue was discussed. DEFELICE advised that the assessor for Westford indicated that his site would be taxed as personal property. He was not aware of the actual amount of revenue that this would generate.
15. This member also conducted research into available public records relating to the efforts of the City of Portsmouth to regulate, monitor and inspect the Pike industries site. On 071509 Fire Inspector Carl F ROEDIGER of the Portsmouth Fire Department was contacted. (603-427-1515). ROEDIGER advised that the Fire Department had no issues with the plant.
16. On 071609 this member made arrangements with Kim McNAMARA of the City of Portsmouth Board of Health to review Board of Health and Inspectional records related to the site. This review was conducted on 071709 following the tour of the Pike Industries facility described above. The following documents were noted:
  - City of Portsmouth Site Review Agreement dated 101207
  - State of New Hampshire Permit to Operate dated 022396
  - Order of Conditions Governing Sprinklers date 103100
  - Building Permit issued 033109
17. Items of particular note in the City of Portsmouth Site review dated were as follows:
  - utilities, cubing, drainage must be installed prior to use or occupancy or the issuance of a Certificate of Occupancy
  - The City Engineer shall approve all utility installations
  - If any manufacturing is to begin prior to the completion of the site work, a bond shall be posted for the full cost of the remaining work.
18. Items of particular note in the Building Permit issued on 033109 were as follows:
  - need for an alternate access to the site
19. Items of particular note in the Order of conditions governing sprinklers were as follows:
  - there must be a sprinkler in the furnace room
  - illuminated emergency egress signs and emergency lighting must be installed in all corridors.

20.

Items of particular note in the State Permit to Operate were as follows:

- all emission control equipment, facilities, systems must be maintained in good working order at all times
- the maximum rate of rock crushing operations shall be 500,000 lbs per hour of quarried rock
- the hours of operation shall be 8 hours per day, 200 days per year in any consecutive 12 month period
- the opacity of emissions should not exceed 20%
- the emission rate of particular matter (PM10) is no greater than 4.25lbs per hour
- particular matter (PM10) is limited to 3.4 tons during any consecutive 12 month period
- opacity of dust from process, equipment, storage piles and roadways shall not exceed 20%
- continuous operation and maintenance of existing water spray, dust suppression systems as noted in the application to control (PM10) emissions by a minimum of 70%
- dust emissions for vehicular movement over access roads from and within the source premises shall be controlled by wetting the roads with water as necessary
- suppress dirt at the conveyor or transfer points by water systems
- good operating practice shall be maintained at all times relative to stockpiling, screen changing and general maintenance
- a daily operating log shall be maintained at all times and shall include the date and time of operations of the device and this log shall be made available to the Air Dust Resource Division upon request.
- within 60 days after the end of the calendar year a written report shall be submitted to the Division indicating
  - the total annual tonnage processed for each crusher
  - it shall include both product sold and material sent to on site storage
- copies of reports shall be retained for 4 years minimum and shall be made available to the Division and the EPA upon request
- the Division of Air Quality shall be notified by telephone or fax within 8 hours of the following:
  - the failure of any air pollution control equipment
  - the failure of any processing equipment
  - the failure of any process to operate in a normal manner
  - which results in an increase in the emissions above allowable limits as stated in the permit.
- the Division shall be notified in writing within 15 days of any such failure and this notification shall include the following:
  - description of malfunctioning equipment
  - description of abnormal operation
  - date of the initial failure
  - period of time over which emissions were increased to the failure
  - cause of the failure
  - estimated resultant emissions in excess of those allowed
  - corrective action taken to reduce and restore normal operation
- compliance with the malfunction notification does not excuse or present a defense to a violation of the permit or of any law

21. It should be noted that the both the Inspectional Services Division nor the Board of Health for the City of Portsmouth had any records of complaint or investigations into violations of Pike industries in their files.

Respectfully submitted

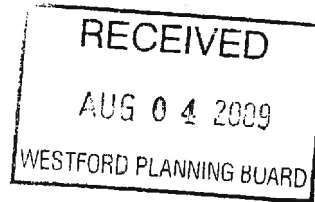
Dennis J Galvin  
Member  
Planning Board  
Town of Westford MA



Ross Altobelli  
Westford Planning Board  
Westford Town Hall  
55 Main Street  
Westford, MA 01886

July 31, 2009

RE: "Asphalt manufacturing Facility",  
540 Groton Road, Westford, MA



Dear Mr. Altobelli:

On behalf of Newport Materials, LLC (applicant) Landtech Consultants, Inc. submits this correspondence in response to the peer review letter issued by Woodward and Curran dated July 2, 2009 for the above referenced project. The plan set has been revised to address the comments as indicated below. The Woodward and Curran comments are in italics with the LandTech Consultants, Inc. response in bold:

1. *Section 5.1 Off-Street Parking Regulations; The applicant has provided sufficient parking as required by the Bylaw. However, it is unclear if the path of travel from the proposed parking area to the control center meets ADA requirements. The Applicant should provide additional detail, including dimensions and spot grades, to ensure the path of travel conforms to ADA requirements.*

**The plans have been revised to provide the additional detail as requested.**

2. *Section 5.3 Signs; The proposed site sign appears to conform to the Bylaw. However, the applicant should be aware that a separate permit is required by the Board of Selectman in accordance with Section 5.3.2 prior to erection.*

**The plans have been revised to provide notation as requested.**

3. *Section 8.1.9 Special Permit Submittals; The Bylaw requires that all site plans prepared to address the special permit requirements for activities within the Water Resource Overlay District address refuse. The applicant should illustrate an adequately sized dumpster to accommodate the anticipated refuse to be generated by the facility. In addition, a narrative should be provided addressing the applicable content requirements of Section 8.1.9.2 for our review.*

**The plans have been revised to provide the dumpster as requested. Please note that the Supplemental Data Report Dated April 6, 2009 contains a narrative and several Appendices detailing all of the information required under Section 8.1.9.2. This included Material Data Safety Sheets and Storage Tank Containment Specifications. Additionally, the secondary containment structure preliminary design was included in the Site Plan set. Final designs shall be finalized by others and are to be provided to the building department prior to construction.**

4. 9.3A.4-2(A) *Ambient Noise Level*; The Bylaw specifies that no person shall operate or cause to be operated any source of sound in a manner that creates a sound level which exceeds 70 dBA or 10 dBA above ambient, whichever is lower, when measured at the property boundary of the receiving land use. The applicant should provide documentation confirming the ambient noise level will meet the Bylaw.

A separate noise study has been submitted by Cavanaugh-Tocci Associates, Inc., to the Board for their review. At the recommendation of the noise study, the plans have been revised to include a 12-foot tall earthen berm along the southeasterly access road.

5. 9.3A.4-3(E) *Retaining Walls*; The Bylaw requires retaining walls be constructed to a maximum height of four (4) feet, and if site conditions require, elevation changes of greater than four (4) feet, retaining walls shall be terraced and landscaped. The proposed boulder retaining wall, located along the property line to the west of the facility, appears to be in excess of 10-FT in height in some locations. The applicant should provide top and bottom of wall spot grades and tier the wall to maintain a maximum height of 4-FT to conform to the Bylaw.

The plans have been revised to include a retaining wall that is terraced with top and bottom of wall elevations. Final designs shall be prepared by others.

6. 9.3A.4-4 *Stormwater Management*; See the Massachusetts Stormwater Handbook and Stormwater Management Standards portion of this letter for a detailed summary of the projects compliance with all state stormwater regulations and design criteria.

No response necessary.

7. 9.3A.4-5(F) *Top Soil*; The applicant proposes 4" of top soil on all areas to be disturbed. However, the Bylaw requires 6" of top soil. Construction Note #1 on Sheet CP2 should be revised accordingly.

The plans have been revised accordingly.

8. 9.3A.4-8(A) *A Wastewater Treatment and Disposal*; The Bylaw requires a report be prepared and provided by the Board of Health confirming that the proposed site development provides for wastewater treatment and/or disposal in a manner that is consistent with regulations of the Commonwealth of Massachusetts and the Westford Board of Health. The applicant should provide more details relative to the means of sewer disposal. This should be reviewed by W&C and the Westford Board of Health.

As proposed, the site is designed as an accessory structure to the existing on-site building which has a recently constructed sewage disposal system. This is the facilities primary means of wastewater treatment. It should be noted that the asphalt skid plant does includes a pre-fabricated control room that includes a stabilized waste holding tank for use by the employees. The applicant has provided the requested information to the Planning Board for inter-office distribution and will forward all correspondence regarding waste disposal.

9. 9.3A.4-8(A)C Site Security; The Bylaw requires a certification from the Police Chief or their designee that the petitioner has provided a written plan for site security, which has been approved by the Police Chief or their designee. The applicant should provide this approval to the Board.

The plans have been revised to indicate a site security fence. Additionally, the access road has a series of security gates that are utilized for site security. The applicant has provided the requested information to the Planning Board for inter-office distribution and will forward all correspondence regarding site security.

10. 9.3A.4-8(A)E; Fire Alarm System; The Bylaw requires sufficient municipal fire alarm system capacity to meet the operating requirements of the proposed site development and use under applicable codes, regulations, and statutes enforce by the Fire Chief or their designee.

The plans have been revised to include a fire cistern for fire prevention. The applicant has provided the requested information to the Planning Board for inter-office distribution and will forward all correspondence regarding site fire alarm system. It should be noted that the site development must conform to all applicable codes, regulations and statutes regarding fire prevention prior to issuance of a building occupancy permit.

11. 9.3A.4-9 Fiscal Analysis The Bylaw requires a fiscal analysis confirming that the proposed development will not place more demand on public services than it generates in tax revenue, or overburden the Town's utilities and infrastructure.

**The applicant will provide a Fiscal Analysis Report under separate cover for review.**

12. Appendix C Table of Dimensional and Density Regulations; The maximum building height allowed within the 1A district is specified as 40-FT. The information provided on Sheet 2 of 2 entitled Proposed 400 Ton Skidded UltraPlant General Component Elevations for Information indicates the height of several of the components of the asphalt plant are in excess of 40-FT. The Applicant should coordinate with the Building Department and confirm the components of the plant in excess of 40-FT will not meet the definition of a building or provide the appropriate requests for a variance to the maximum building height.

As proposed, the site is designed as an accessory structure to the existing on-site building. As such, the proposed components are considered an accessory structure and are allowed by the Zoning By-law. The applicant has provided the requested information to the Planning Board for inter-office distribution and will forward all correspondence regarding site building heights.

Subdivision Rules and Regulations (Chapter 218)

W&C has reviewed the project for conformance to the applicable portions of the Town of Westford's Subdivision Rules and Regulations. Our comments are as follows.

13. Section 218-13 B(1) Drainage; See the Massachusetts Stormwater Handbook and Stormwater Management Standards portion of this letter for a detailed summary of the project's compliance with all state stormwater regulations and design criteria.

**No response necessary.**

Town of Westford Non-Zoning Wetlands Bylaw (Chapter 171)

W&C has reviewed the project for conformance to the Town of Westford's Non-Zoning Wetland's Bylaw. Our comments are as follows.

14. 171-2-B(2). Prohibited Activities; The non-zoning Bylaw prohibits dumping of any materials within 100-feet of the wetland boundary. Although no dumping is proposed, we recommend site signage be provided along the existing and proposed roadways adjacent to the existing resource areas indicating "No Material Stockpiling, Storage or Dumping Beyond this Point".

**The plans have been revised to indicate signage as requested.**

15. 171-2-B(3). Prohibited Activities; The non-zoning Bylaw prohibits the storage of salts, fertilizers, heavy metals, petrochemicals or toxic substances within 100-feet of the wetland boundary. See Previous recommendation.

**See previous comment.**

Stormwater Report and Checklist for Stormwater Report

W&C has reviewed the Stormwater Report for conformance with standard engineering practice and the MassDEP Checklist for Stormwater Report for consistency with the applicable regulations and the information provided in the report and plans. Our comments are as follows:

16. The existing watershed boundary illustrated on Sheet PRE entitled Pre-Development Drainage Map is not consistent with the existing topography. It appears that a ridge line runs along the existing berm, to the north of the proposed aggregate yard, and continues east through the existing gravel roadway and eventually off the property. It appears that this ridge line is the boundary of two distinct watersheds, each discharging to a separate wetland area. The engineer should review the limits of the existing watershed boundary and adjust as needed to be consistent with the existing topography.

**The drainage maps and calculations have been revised accordingly.**

17. The total watershed area of the pre-development and post-development conditions analysis are not equal, however, the outer boundaries as illustrated on Sheets PRE and POST appear to be consistent. The Applicant should review the total areas used in the analysis and revise accordingly.

**The drainage maps and calculations have been revised accordingly.**

18. The Applicant has used a curve number (CN) of 87 for the entire area under analysis in the pre-development conditions. However, Sheet PRE illustrates several existing buildings and tree covered areas. The CN calculations should be revised to reflect these sub-areas.

**The drainage maps and calculations have been revised accordingly.**

19. Time of concentration flow paths are not included. Sheets PRE and POST should be revised to include the time of concentration (Tc) flow paths for each watershed and sub-watershed areas.

**The drainage maps and calculations have been revised accordingly.**

20. *The Stormwater Checklist is not stamped by a registered professional engineer. The engineer should stamp, sign and date page 2 of 8 of the Stormwater checklist.*

**The enclosed checklist has been stamped accordingly.**

21. *Under Standard 3 on page 4 of 8 of the Checklist, runoff from all impervious areas at the site discharge to the infiltration BMP is checked. It appears that approximately 400-FT of the existing gravel road from the existing building to the proposed asphalt plant site is proposed to be paved as illustrated on Sheet OSP. The applicant should clarify if this portion of the access drive is to be converted from gravel to pavement, and if necessary, update the Checklist.*

**The drainage calculations have revised to include the access road.**

22. *The proposed asphalt manufacturing facility will include the storage of hazardous materials, and therefore, is considered a Land Use with Higher Potential Pollutant Loads (LUHPPL). In addition, the Applicant utilized a sandy soil with an infiltration rate of 8.27 inches per hour in the infiltration calculations. Therefore, under Standard 4 on page 5 of 8 of the Checklist, the following boxes should be selected:*

- a. Treatment BMP's subject to the 44% removal pretreatment requirements and the one inch rule for calculating the water quality volume are included, and discharge*
- b. is within soils with a rapid infiltration rate (greater than 2.4 inches per hour)*
- c. involves runoff from a LUHPPL.*

**The plans have been revised to include the 44% TSS removal prior to any infiltration BMP's and the Checklist has been amended accordingly.**

23. *As stated above the proposed use is considered a LUHPPL. Therefore, under Standard 5 on page 6 of 8, the following box should be selected:*

- a. LUHPPL's are located at the site and industry specific source control and pollution prevention measures have been proposed to reduce or eliminate the exposure of LUHPPL's to rain, snow, snow melt and runoff, and been included in the Long Term Pollution Prevention Plan should be checked.*

**The checklist has been revised accordingly.**

24. *Under Standard 8 on page 8 of 8 of the Checklist, the applicant indicates the required Stormwater Pollution Prevention Plan has not been provided but will be submitted prior to land disturbance. W&C recommends that any approval be conditioned upon a final review of the SWPPP prior to construction.*

**Comment noted.**

Massachusetts Stormwater Handbook

W&C has reviewed the project for compliance with the MassDEP Stormwater Handbook. Chapter 2, Volume 2 of the Handbook outlines specific structural BMP specifications and design guidelines that must be utilized for the design of the Stormwater Management Systems. The following summary highlights elements of each of the proposed BMP's that should be re-examined, and in some cases modified, by the Applicant to ensure compliance.

25. Water Quality Swales

- a) An impervious liner is required for all BMP's servicing a LUHPPL, unless 44% of the TSS has been removed prior to discharge to the swale. A typical Water Quality Swale cross section should be provided illustrating the liner, underdrain and other cross sectional elements of the swale.

**The water quality swale detail has been revised to include the under drain and other cross sectional elements. The impervious liner is not necessary because all of the stormwater treatment trains include 44% TSS removal prior to discharge to the infiltration BMP.**

- b) The Applicant should confirm that the Water Quality Swale provides a Hydraulic Residence Time (HRT) of 9-Minutes or more.

**The drainage report has been revised to include calculations for conformance with this item.**

26. Sediment Forebay

- a) An impervious liner must be provided unless 44% of the TSS has been removed prior to discharge to the forebay. The Forebay Basin on the Typical Detention Basin Cross Section should be revised to include the liner. The Applicant should provide capacity calculations to confirm the forebays meet the minimum sizing requirements outlined in the Handbook.

**The impervious liner is not necessary because all of the stormwater treatment trains include 44% TSS removal prior to discharge to the infiltration BMP. The drainage report has been revised to include calculations for conformance with this item.**

27. Extended Dry Detention Basin

- a) Extended Dry Detention Basins #1 and #2 must be lined with an impervious barrier unless 44% of the TSS is removed prior to discharge to the basins. An impervious barrier should be added to the Typical Detention Basin Cross Section or calculations should be provided confirming 44% TSS has been removed prior to discharge to the basins.

**The plans have been revised to indicate the extended dry detention basin is designed as a dry detention basin utilized for stormwater control only. The impervious liner is not necessary because all of the stormwater treatment trains include 44% TSS removal prior to discharge to this BMP.**

- b) *Extended Dry Detention Basin #1 should be revised to include an outlet structure to detain the 2-year storm event for at least 24-hours. In addition, a detail of the outlet structure should be provided.*

**The plans have been revised to indicate the extended dry detention basin is designed as a dry detention basin utilized for stormwater control only. As such, the basin is not required to contain this storm event and an outlet structure is not required. It should be noted that the outlet pipes were sized to regulate flow similar to an outlet structure.**

**28. Infiltration Basin**

- a) *Provide documentation indicating at least 44% of the TSS is removed prior to discharge to the infiltration basin.*

**The plans and calculations have been revised to indicate 44% TSS removal has been provided prior to this BMP as required.**

- b) *A minimum of three test pits or soil borings are required for each infiltration basin. Two additional test pits must be performed within the infiltration basin and copies of the test pit logs should be provided.*

**The plans and have been revised to include the additional test pit information as required.**

- c) *Outlet protection should be provided at the entrance to the infiltration basin to prevent incoming flow velocities from reaching erosive levels.*

**The plans have been revised to include outlet protection as required.**

- d) *The basin should be relocated to provide a minimum lateral separation of 10-FT from the existing buildings.*

**The plans and have been revised to indicate a minimum lateral separation from the existing buildings as requested. The remaining structures within 10-feet of the basin are trailers (no foundation) and do not have an offset requirement.**

- e) *The 5-FT wide emergency overflow weir should be set at the elevation of the Adjusted Minimum Required Recharge Volume and an underdrain should be provided for maintenance purposes.*

**Although the Stormwater Handbook recommends that infiltration basins designed to control stormwater runoff include an outlet structure with an orifice set at the minimum required recharge volume elevation, the basin is designed with minimal stormwater control and provides approximately 1-foot of freeboard above this elevation. The minimum required recharge volume calculates to 165.6.**

- f) A bypass is required for basin's servicing a LUHPPL to divert contaminated stormwater from the infiltration basin.

**The plans have been revised to include a gate valve that would contain stormwater runoff to the detention basin in case of an emergency.**

Stormwater Management Standards

W&C has reviewed the project with respect to compliance with the MassDEP Stormwater Management Standards. Chapter 1, Volume 3 of *The Stormwater Management Handbook* outlines specific calculations, and other information, that must be submitted with each drainage report to document compliance with the Standards. The following summary highlights elements of the proposed project pertaining to stormwater management that should be re-examined, and in some cases modified, by the Applicant to ensure compliance.

*Standard #1 - No new stormwater conveyances (e.g., outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.*

- Additional documentation is required to confirm compliance with Standard 1. The applicant should quantify the maximum velocity during the 10-year storm event within the overflow trench from Retention Pond #3. If conditions warrant, rock rip-rap sizing and gradation calculations should be provided and the site plans and details should be revised accordingly.

**The drainage report has been revised to include compliance with Standard #1 and the required rock rip-rap sizing.**

*Standard #2 – Stormwater management systems shall be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates. This Standard may be waived for discharges to land subject to coastal storm flowage as defined in 310 CMR 10.04.*

- See the Stormwater Report and Checklist for Stormwater Report portion of this review letter for comments to be addressed to meet Standard #2.

**No comment necessary.**

*Standard #3 - Loss of annual recharge to groundwater shall be eliminated or minimized through the use of environmentally sensitive site design, low impact development techniques, stormwater BMPs, and good operation and maintenance. At a minimum, the annual recharge from the post-development site shall approximate the annual recharge from pre-development conditions based on soil type. This Standard is met when the stormwater management system is designed to infiltrate the required volume as determined in accordance with the Massachusetts Stormwater Handbook.*

- Additional documentation is required to confirm compliance with Standard 3. The applicant should determine the Adjusted Minimum Required Recharge Volume to account for the proposed paving of the existing gravel road (from the existing building to the proposed asphalt plant as illustrated on Sheet OSP) and confirm sufficient storage volume is provided in Retention Basin #3.

**The drainage calculations have been revised for compliance with Standard #3 including the treatment of the access road and providing the adjusted minimum required recharge volume calculations.**



**Standard #4 – Stormwater management systems shall be designed to remove 80% of the average annual post-construction load of TSS. It is presumed that this standard is met when:**

- a. Suitable practices for source control and pollution prevention are identified in a long-term pollution prevention plan, and thereafter are implemented and maintained;*
  - b. Structural stormwater BMP practices are sized to capture the required water quality volume determined in accordance with the Massachusetts Stormwater Handbook; and*
  - c. Pretreatment is provided in accordance with the Massachusetts Stormwater Handbook.*
- *Additional documentation is required to confirm compliance with Standard 4. As summarized within the Massachusetts Stormwater Handbook section of this review, the proposed water quality swale and extended dry detention basin do not meet the design guidelines of the Handbook, and therefore, full TSS removal efficiencies cannot be assumed.*

**The plans and drainage calculations have been revised for conformance with Standard #4 including additional water quality swale design details and TSS removal rate calculations.**

- *The water quality calculations should be revised to include a 1" water quality depth due to the presence of the LUHPPL and soil infiltration rate in excess of 2.4 inches per hour.*

**The drainage calculations have been revised accordingly.**

**Standard #5 - For land uses with higher potential pollutant loads, source control and pollution prevention shall be implemented in accordance with the Massachusetts Stormwater Handbook to eliminate or reduce the discharge of stormwater runoff from such land uses to the maximum extent practicable. If through source control and/or pollution prevention all land uses with higher potential pollutant loads cannot be completely protected from exposure to rain, snow, snow melt, and stormwater runoff, the proponent shall use the specific structural stormwater BMPs determined by MassDEP to be suitable for such uses as provided in the Massachusetts Stormwater Handbook. Stormwater discharges from land uses with higher potential pollutant loads shall also comply with the requirements of the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53 and the regulations promulgated thereunder at 314 CMR 3.00, 314 CMR 4.00 and 314 CMR 5.00.**

- *Additional documentation is required to confirm compliance with Standard 5. The Applicant should revise the Water Quality Calculations to account for a water quality depth of 1", as oppose to the 0.5" used due to the presence of the LUHPPL. In addition, any BMP's receiving discharge with less than 44% of the TSS removed, including the water quality swale, sediment forebay and extended dry detention basin, should be lined to prohibit the contamination of groundwater. The applicant should provide confirmation that 44% of the TSS is removed prior to discharge to Retention Basin #3.*

**The drainage calculations have been revised for a water quality depth of 1-inch and to achieve a TSS removal of 44% prior to discharge to the infiltration basin (formerly Retention Basin #3).**

*Standard #6 – Stormwater discharges within the Zone II or Interim Wellhead Protection Area of a public water supply, and stormwater discharges near or to any other critical area, require the use of the specific source control and pollution prevention measures and the specific structural stormwater BMPs determined by MassDEP to be suitable for managing discharges to such areas, as provided in the Massachusetts Stormwater Handbook. A discharge is near a critical area if there is a strong likelihood of a significant impact occurring to said area, taking into account site-specific factors. Stormwater discharges to Outstanding Resource Waters and Special Resource Waters shall be removed and set back from the receiving water or wetland and receive the highest and best practical method of treatment. A "storm water discharge" as defined in 314 CMR 3.04(2)(a)1 or (b) to an Outstanding Resource Water or Special Resource Water shall comply with 314 CMR 3.00 and 314 CMR 4.00. Stormwater discharges to a Zone I or Zone A are prohibited unless essential to the operation of a public water supply.*

- *Standard #6 is not applicable.*

**No response necessary.**

*Standard #7 – A redevelopment project is required to meet the following Stormwater Management Standards only to the maximum extent practicable: Standard 2, Standard 3, and the pretreatment and structural BMPs requirements of Standards 4, 5, and 6. Existing stormwater discharges shall comply with Standard 1 only to the maximum extent practicable. A redevelopment project shall also comply with all other requirements of the Stormwater Management Standards and improve existing conditions.*

- *Standard #7 is not applicable.*

**No response necessary.**

*Standard #8 – A plan to control construction-related impacts including erosion, sedimentation and other pollutant sources during construction and land disturbance activities (construction period erosion, sedimentation, and pollution prevention) shall be developed and implemented.*

- *An adequate Erosion and Sedimentation Control plan has been provided, therefore, Standard #8 has been met.*

**No response necessary.**

*Standard #9 – A long-term operation and maintenance plan shall be developed and implemented to ensure that stormwater management systems function as designed.*

- *A Long Term Operation and Management Plan is provided on Sheet SWPPP, therefore, Standard #9 has been met. However it is recommended that a draft SWPPP along with inspection forms should be provided for review prior to construction.*

**Comment noted.**

Standard #10 - All illicit discharges to the stormwater management system are prohibited.

- Standard #10 has been met. An Illicit Discharge Compliance Statement has been submitted and the Long Term Operation and Management Plan includes measures to prevent illicit discharges.

**Comment noted.**

General Engineering Practice

W&C has reviewed the information submitted relative to standard engineering practice and offers the following general comments:

- a. Approximately 400-FT of the existing gravel road, from the existing building to the proposed asphalt plant site, is proposed to be paved. This portion of the site access drive is beyond the limits of site plans provided for review. These improvements, as well as appropriate mitigation measures and erosion control, should be provided for review.

**The site plans and drainage analysis have been revised to include the access road in more detail.**

- b. The proposed contours for the site access drive are not consistent with the typical roadway cross section provided on Sheet DS1 or the super elevation notes specified on Sheet CP1. The proposed contours should be revised to illustrate roadway crowns, cross slopes and super elevations as intended.

**With the exception of the exit road near the control room, all roads are to be super-elevated. The site details have been revised to help clarify this item.**

- c. An area along the site access drive, south of the proposed 24" culvert, is specified to Provide sag depression in pavement grading for emergency overflow to the southeast. Spot grades should be provided and the grading in this area should be revised to reflect the proposed sag depression.

**The plans have been revised to eliminate this item.**

- d. The centerline grade along the access drive south east of the proposed detention basins is approximately 0.5% (between elevations 170 and 169). Grades this shallow may result in ponding and icing problems. The proposed contours should be revised to maintain a minimum centerline grade of 1%.

**Due to existing flat topography and to reduce significant earthwork, the road has been designed to be superelevated at 2%. Therefore, the proposed (longitudinal) centerline grade of 0.5% is adequate. The super-elevated road with an open drainage system provides adequate drainage while avoiding ponding and icing issues.**

- e. *The grading along the proposed roadway and Stone Swale #3 does not allow for discharge from the roadway to the swale. The proposed contours should be revised to allow for positive drainage to the swale as intended.*

**The plans have been revised to clarify this item. All of the access drives are to be directed at the swales.**

- f. *A proposed boulder retaining wall, which appears to be in excess of 10-FT high in some locations, is located on the property line to the west of the site. Additional information should be provided, including construction details and top and bottom of wall spot grades to ensure the wall can be constructed without easements.*

**The plans have been revised to include a retaining wall that is terraced with top and bottom of wall elevations. Final designs shall be prepared by others.**

- g. *A diversion swale is located along the toe of the proposed boulder retaining wall. The diversion swale is illustrated in schematic form. The proposed contours should be revised to reflect the diversion swale.*

**The plans have been revised to eliminate this item.**

- h. *Proposed Swale #4 located east of the proposed access drive is specified to be 150-FT in length at a slope of 0.003-FT/FT. However, the invert elevation of the discharge pipe entering the swale and the spot grade at the end of the swale are at elevation 165.0.*

**The plan has been revised to correct the “typo” for the invert elevation of the discharge pipes entering the swale (now shown as 165.5).**

- i. *Proposed Swale #4 is illustrated in schematic form. Proposed contours should be provided to reflect the actual grading of the swale.*

**The plans have been revised to clarify the existing and proposed grading in this area for clarification. The area is flat with minimal grade changes.**

- j. *The existing contours adjacent to Proposed Swale #4 should be revised to include labels to confirm the proposed grading ties into the existing surface.*

**The plans have been revised to clarify the existing and proposed grading in this area for clarification. The area is flat with minimal grade changes.**

- k. *Several existing unlabeled contours appear to penetrate proposed Retention Basin #3 along the town line. The existing contours should be labeled and the proposed basin and overflow trench should be graded out to meet the existing surface.*

**The plans have been revised to clarify the existing and proposed grading in this area for clarification. The area is flat with minimal grade changes.**

- l. An earthen berm is proposed west of the proposed 24" culvert and illustrated in schematic form. The proposed 172 contour should be revised to reflect the earthen berm.*

**The plans have been revised to eliminate the earthen berm.**

- m. Grading and drainage patterns within the proposed asphalt manufacturing facility are unclear. Additional detail should be provided to confirm positive drainage is achieved.*

**The plans have been revised to include additional spot grading to detail the proposed topography as requested.**

- n. The Typical Roadway Cross Section provided on Sheet DS1 should be revised to reflect the proposed site access cross section. The site plans do not include granite curbing, sidewalks or utilities within the site access drive.*

**The plans have been revised to include two cross-section details as requested.**

- o. The applicant proposes to accommodate the sanitary sewer waste generated from the control trailer with a self-contained stabilized waste unit. W&C recommends that any approval be conditioned upon the issuance of all necessary Board of Health or MassDEP permits.*

**As proposed, the site is designed as an accessory structure to the existing on-site building which has a recently constructed sewage disposal system. This is the facilities primary means of wastewater treatment. It should be noted that the asphalt skid plant does includes a pre-fabricated control room that includes a stabilized waste holding tank for use by the employees. The applicant has provided the requested information to the Planning Board for inter-office distribution and will forward all correspondence regarding waste disposal.**

- p. A construction entrance is proposed at the end of the access drive prior to the gravel work area. W&C recommends an additional construction drive be provided, or the proposed construction drive be relocated, at the beginning of the site access drive improvements located adjacent to the existing building approximately 400-FT south of the limits of the site plan.*

**The plans have been revised with additional construction entrances.**

- q. The applicant should clarify the materials to be stored in the storage bin.*

**The plans have been revised to include information on storage bin materials as requested.**

We anticipate that these items address all of the peer review letter concerns and we look forward to your approval at the next public hearing. Should you have any further questions or require additional information, please do not hesitate to contact me.

Sincerely,  
**LandTech Consultants, Inc.**

A handwritten signature in black ink, appearing to read "Math A. Waterman".

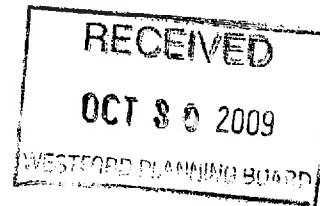
Matthew A. Waterman, P.E.  
Project Engineer

Cc: Attorney Douglas Deschenes  
Newport Materials, LLC  
540 Groton Road, LLC  
Town Clerk

Enc.

October 30, 2009

Ross Altobelli  
Westford Planning Board  
Westford Town Hall  
55 Main Street  
Westford, MA 01886



RE: "Asphalt manufacturing Facility",  
540 Groton Road, Westford, MA

Dear Mr. Altobelli:

On behalf of Newport Materials, LLC (applicant) Landtech Consultants, Inc. submits this correspondence in response to the peer review letter issued by Woodward and Curran dated August 14, 2009 for the above referenced project. The plan set has been revised to address the comments as indicated below. The Woodward and Curran comments are in *italics* with the LandTech Consultants, Inc. response in **bold**:

1. *A security fence has been added to the project plans however it does not entirely surround the proposed asphalt plant operations. Currently the fence is proposed along the southern and eastern edges of the asphalt plant. It is recommended that the applicant provide a fence along the berm and property line as a means to deter trespassers and/or provide additional means of security along the northern and western edges of the plant.*

**The plans have been revised to provide a security fence around the entire facility.**

2. *The Massachusetts Stormwater Management Handbook states in Volume 2 Chapter 2 that a water quality swale for a Higher Pollutant Loading site must be lined. The applicant should provide an impermeable liner for the water quality swales located within the asphalt process area.*

**The plans have been revised to provide an impermeable liner for the water quality swales located within the asphalt process area.**

3. *In the TSS removal worksheet, a 25% TSS removal credit for the sediment trap followed by an 80% TSS removal rate for the infiltration basin has been applied. However, the Massachusetts Stormwater Management Handbook states in Volume 2 Chapter 2 that a sediment trap is required prior to an infiltration basin but no credit shall be given for a sediment trap when the full 80% TSS removal credit for the infiltration basin is applied. The applicant should revise and resubmit the TSS removal worksheets.*

**The drainage report has been revised accordingly.**

4. *Similar to comment #3, the engineer has taken credit for two sediment traps in series prior to the infiltration basin. The adjacent sediment trap to the infiltration basin will receive no TSS removal credit as it is incorporated in the 80% TSS removal of the infiltration basin. By removing the sediment trap from the TSS removal calculations the required 44% TSS removal prior to an infiltration BMP is not met. The applicant should revise the treatment train process in order to satisfy the 44% TSS removal requirement.*

**The treatment train process has been revised to provide the required 44% TSS removal prior to the sediment forebays.**

5. *The applicant should revise the pre-development and post-development watershed areas to incorporate runoff from off-site drainage areas. Specifically the area west of existing watershed #1 where the proposed emergency access road is to be located.*

**The drainage maps have been revised to include the additional area specified.**

6. *The operations and maintenance (O&M) schedule is provided in the plan set, however a written operations and maintenance plan, including; inspection forms, responsible parties, & estimated operations and maintenance budget should be provided for review.*

**A draft copy of the Stormwater Operation & Maintenance Plan has been provided.**

7. *The asphalt skip plant includes a pre-fabricated control room that includes a stabilized waste holding tank for use by the employees. W&C finds that this is an acceptable means for waste disposal, however in accordance with the By-Law, Section 9.3A 34-8(a), a report prepared by the Board of Health confirming that this manner is acceptable should be received prior to the Board rendering a decision.*

**The applicant is currently reviewing the project with the Board of Health. Final recommendations will be forwarded to the Board.**

8. *The plans have been revised to include a 10,000 gallon cistern for fire protection. W&C recommends that a registered fire protection engineer prepare an analysis documenting that the cistern's capacity is adequate for fire protection and that the fire suppression system meets the National Fire Protection Association (NFPA) code. LTC indicated that a fire protection engineer has already been hired and is looking into the analysis and it should be provided to the Fire Chief for review.*

**The plans have been submitted to a fire protection engineer and the Fire Chief for review. Final recommendations will be forwarded to the Board. Based on preliminary recommendations from the fire protection engineer, the plans have been revised to replace the 10,000 gallon cistern with two (2) 31,000 gallon cisterns.**

9. *As required by the by-law, Section 9.3A.4-8(A)E, the Fire Chief should provide comments relative to the fire alarm system capacity in order to meet the operating requirements of the proposed development prior to the Board rendering a decision.*

**The plans have been submitted to a fire protection engineer and the Fire Chief for review. Final recommendations will be forwarded to the Board.**



10. *As required by the by-law, Section 9.3A.4-9, the fiscal analysis should be provided by the applicant prior to the Board rendering a decision.*

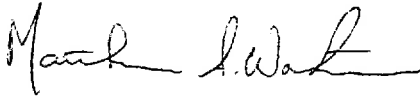
**A fiscal analysis is currently being prepared by the applicant. Copies will be forwarded to the Board upon completion.**

11. *The applicant should provide correspondence from the Building Inspector's office that states that the accessory structure can exceed the 40' maximum height allowance for a structure allowed in the industrial district.*

**The plans have been submitted to the Building Inspector's Office for review. Final recommendations will be forwarded to the Board.**

We anticipate that these items address all of the peer review letter concerns and we look forward to your approval at the next public hearing. Should you have any further questions or require additional information, please do not hesitate to contact me.

Sincerely,  
**LandTech Consultants, Inc.**

A handwritten signature in black ink, appearing to read "Matthew A. Waterman".

Matthew A. Waterman, P.E.  
Senior Project Engineer

- Cc: Attorney Douglas Deschenes  
Woodard & Curran – Andover, MA  
Woodard & Curran – Providence, RI  
Newport Materials, LLC  
540 Groton Road, LLC  
Town Clerk
- Enc. Revised Site Plans  
Revised Drainage Report  
Stormwater Operation & Maintenance Plan

DESCHENES & FARRELL, P.C.

Attorneys at Law  
The Fiske House at Central Square  
One Billerica Road  
Chelmsford, MA 01824-3010  
Telephone: (978) 250-8877  
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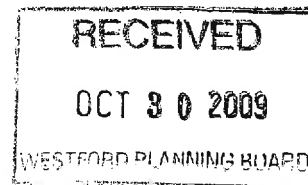
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WESTFORD

*Douglas C. Deschenes  
Kathryn Lorah Farrell*

October 30, 2009

*Anthony J. Natola  
Julie A. McNeill  
Melissa E. Robbins  
Kevin S. Eriksen  
Of Counsel:  
Natasha Ramsingh\*  
\*Licensed in FL & MA*

Westford Planning Board  
55 Main Street  
Westford, MA 01886  
Attn: Ross Altobelli



**RE: 540 Groton Road**

Dear Mr. Altobelli and Members of the Board,

As you are aware this office represents Newport Materials regarding their application for an asphalt manufacturing facility at 540 Groton Road. In response to questions from the Board, Woodard and Curran and abutters during the last hearings for this matter the Applicant would like to submit the following responses:

**Question: How are the trucks cleaned on site and what is used to clean them?**

Trucks are not washed on site, truck beds are treated with a material similar to soap known as a "release agent" which allows the asphalt that will be loaded into their truck bed to slide out of the bed of the truck.

As trucks enter the asphalt facility's yard, they will proceed to the entrance of the scale from which they will get their order of asphalt. The truck is then directed to pull under the predetermined silo. As the truck is moving forward, it will pass under a spray bar. An electronic eye will be positioned so that as the truck passes through its beam the spray system will turn on and coat the inside of the truck body with a predetermined mixture of release agent (soap) and water. The system is turned off as soon as the truck moves past the electronic eye.

The release agent will be stored in a two hundred and fifty (250) gallon tote that will be protected behind a concrete barrier from any accidental hits that could rupture the tote. We have provided a copy of the Material Safety Data Sheet for the release agent.

**Question: What type of training is required for employees?**

Newport Materials, like any other business in the United States, falls under the purview of the United States Department of Labor's Occupational Safety and Health Administration ("OSHA"), and is compelled by law to conduct in-house safety training for all its employees. This training will be conducted by OSHA certified trainers prior to start up of the facility. This will include, but will not be limited to, fire safety training.

Newport Materials, in conjunction with the plant manufacturer, will provide additional initial proper plant operation instruction including safety precautions and emergency procedures to all plant operators, employees, and supervisors. This also includes a yearly refresher and update course at the plant manufacturer's own facility.

Furthermore, before any person is allowed to be a plant operator, he/she will go through extensive in-house training before being allowed to operate the plant.

**Question: What type of Chemicals will be stored on site?**

- 10,000 gallon storage tank for #2 fuel oil
- Two (2) 30,000 gallon tanks containing liquid asphalt
- One (1) 250 Gallon Tote of Release Agent
- Four (4) 55 gallon drums containing one (1) of each:
  - Motor Oil
  - Gear Oil
  - Hydraulic Oil
  - Antifreeze
- Approximately four (4) cans each of WD-40 penetrating oil and brake cleaner.
- Five (5) gallons of paint.
- One (1) or two (2) cases of grease in tubes.
- Parts cleaner on site that will be supplied and serviced by Clean Harbors.
  - The unit will filter the solvent and reuse the solvent.

All 55-gallon drums will be stored on containment pallets.

The Fuel Oil and the Liquid Asphalt will be placed in a concrete containment structure that will be designed by an engineer to meet or exceed the State of Massachusetts Building Code. Furthermore the structure will be sized to meet all the requirements for containment systems set forth in the State of Massachusetts Fire Prevention Regulations and the National Fire Protection Association Code 30. The storage tanks will be constructed to the UL 142 specification governing the construction of tanks and will be new.

All other chemicals will be stored in a fireproof unit. Please find attached Material Safety Data Sheet for oil products and parts cleaner.

Futhermore please note that facilities that store more than 1,320 gallons of oil above ground are required by EPA to prepare and have a copy available on the site of a Spill Prevention, Control and Countermeasure Plan (SPCC Plan). The plan will be prepared prior to startup of the facility. Also, employees on site will be trained to respond appropriately and efficiently in the unlikely event that an accident should occur.

**Question: What is the risk from the high-pressure gas line proposed to service the site?**

High-pressure gas lines are located throughout Westford and surrounding communities, including the gas line currently located within Groton Road. When gas lines are installed they are placed in a trench and surrounded by sand which is intended to absorb any vibrations through the soil as well as protect the pipe from rocks and potentially sharp objects within the surrounding soils. High-pressure lines currently cross in front of the Fletcher Quarry within Groton Road. Utilization of a gas line to service the facility will not pose any unique or heightened risk of incident.

**Question: What are the implications from the portion of the proposed site within the Water Resource Protection Overlay District?**

The proposed Asphalt Plant is located in an area shown on the Town of Westford Water Resource Protection Overlay District (WRPOD) Map as a District 3. The proposal only recently was incorporated into district 3 by a revision to the map made in August of 2009. Prior to this revision and at the time the application for the plant was submitted the area of the plant was not located in a WRPOD of any kind. At that time the only component of the facility proposed to be located within a WRPOD (district 3) was the access road to the facility. The access road for the facility was and is allowed within a district 3 of the WRPOD and requires no special permits under zoning.

The re-delineation of the WRPOD in August of 2009 now places the proposed plant within a WRPOD district 3. In fact, the entire town of Westford now falls within the WRPOD in either a district 1, 2, or 3. No portion of the town of Westford any longer falls outside of the WRPOD. Although we contend that the project is grandfathered at the time of filing of the permit, we also are confident that all protections required to the groundwater within a district 3 have been taken within the site design. A district 3 is the least restrictive of a WRPO Districts. As pertains to the submittal and the current WRPOD delineation, a special permit would be required under Section 8.1.7.2.2(b). This section relates to the "Aboveground storage of hazardous materials in quantities greater than associated with normal household use, other than fuel oil for residential heating purposes". The site as proposed includes two 30,000 gallon liquid asphalt storage tanks and one 10,000 gallon #2 fuel oil tank. Based on this section and the proposed tanks, a special permit would be required within a district 3.

Section 8.1.8.1 of the bylaw states that the special permit may be granted if the Special Permit Granting Authority (Planning Board) determines that the intent of the section has been maintained in that the groundwater is being protected and the measures being

implied to do so are designed to be simple, reliable and feasible. Additionally, the degree of threat should the control measures fail should be considered. As such, we offer the following:

- All tanks are to be enclosed within a concrete containment structure. The structure is sized such that the volume to be retained is equivalent to 110% of the largest tank. This is in accordance with state and federal requirements. The structure has a concrete floor as well as concrete walls. Should there be any type of a spill within the containment structure a licensed hazardous waste removal firm would be employed to removed the materials from the containment structure and dispose of properly.
- The drainage for the site has been designed with lined treatment swales prior to discharge into the detention basins. By doing so, infiltration within the treatment swales to the groundwater is eliminated. A large volume of any potential contaminants reaching the treatment swales would be contained within the swales.
- Treatment swales discharge to proposed detention basins. The outlet of the primary detention basin would be fitted with an emergency control valve. The purpose of the control valve is to close off the flow from the basin such that any potential contaminants that reach the detention basin are retained within the detention basin for further clean-up and proper disposal by a licensed environmental firm.
- Liquid asphalt is required to be heated to approximately 300 degrees to remain in a viscous state. Should an asphalt storage tank be breached, the liquid asphalt would very quickly cool to ambient temperatures. At ambient temperate, the asphalt would hard quickly and would no longer be viscous enough to move freely and/or to leach into the groundwater.

We feel that the measures taken to protect the groundwater from any potential spills on site as well as the general nature of the materials on site would comply with all requirements of Section 8.1.7 of the Westford Zoning Bylaw and therefore meet the requirements for a Special Permit for the proposed materials within a District 3.

**Question: Are the tanks (asphalt storage tanks/silos) an exception from the Westford Zoning Bylaws for height?**

The tanks and other projections or necessary appurtenances of the proposed facility will be higher than that allowed for a structure in the Town of Westford, however, Section 4.2.1. of the Height Regulations entitled "Exceptions" states (in part) as follows:

The provisions of this Zoning Bylaw governing height of the building shall not apply to chimneys, poles, spires, *tanks*, bulkheads, skylights, ventilators, cooling towers, electronic equipment, elevator shafts, and **other projections or necessary appurtenances** carried above the roof...(Emphasis added).

**Question: What is the fiscal impact to the Town of such a facility?**

The facility will generate a real property tax benefit to the Town of Westford of approximately \$20,000.00. It will also not place more demand on public services than it generates in tax revenue. Furthermore, the facility will create 5-8 jobs on the site. The facility will not require any form of specialized Police or Fire Department services, nor will it impact or burden general Town services (i.e. library, town hall, Boards, Departments or Commissions) to any greater extent than other businesses in Town. This is further assured by the fact that if allowed, the Project will provide mitigation to the Westford Police Department, Fire Department and Highway Department by way of equipment donations, training, traffic studies, and paving materials and labor on an annual basis. This mitigation will not only provide a fiscal benefit to the Town but also help to increase public safety.

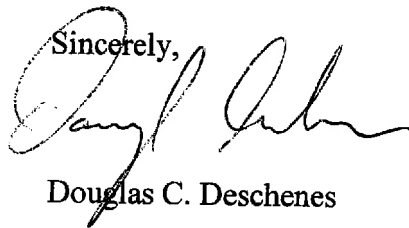
The project will create no demand on school services and will not generate an additional need for or availability of housing (including affordable housing) or school facilities.

**Revised Plans**

Included with this letter please find revised plans from Landtech. These plans incorporate changes requested from Woodard and Curran, the Planning Board, and other Town Boards and Departments. A detailed description of the plan changes is included along with the revised plans.

Thank you for your continued time and attention to this matter.

Sincerely,



Douglas C. Deschenes

Enclosures.

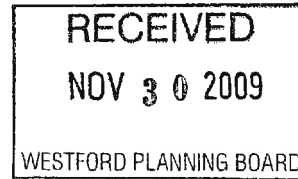
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**COMMITMENT & INTEGRITY  
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35 New England Business Ctr. T 866.702.6371  
Suite 180 T 978.557.8150  
Andover, Massachusetts 01810 F 978.557.7948  
www.woodardcurran.com



November 25, 2009

Town of Westford Planning Board  
Town of Westford  
55 Main Street  
Westford, MA 01886



Attn: Mr. Ross Altobelli, Planner

Re: Site Plan Peer Review Comment Letter #3  
Asphalt Manufacturing Facility  
540 Groton Road, Westford, MA

Dear Members of the Board:

Woodard & Curran, Inc. (W&C) was engaged by the Town of Westford Planning Board (PB) to review the Site Plan for the Proposed Asphalt Manufacturing Facility to be located at 540 Groton Road in Westford, Massachusetts. The subject parcels total 115.5 acres, of which 91.7 acres are located in the Town of Westford and are identified on Assessors Map 48, as Parcels 11.234, 11.248 and 11.249. The remaining 23.8 acres are located in the Town of Chelmsford. Woodard & Curran has reviewed the project plans and examined specific topics and technical matters in regards to conformance to the Town of Westford's Zoning Bylaw, Non-Zoning Bylaw, Subdivision Regulations, Massachusetts Department of Environmental Protection (MassDEP) Stormwater Management Handbook (MSMH), and general engineering practice.

This current letter includes a summary of our technical findings and recommendations based on the most recent submittal. We have also included a summary of the peer review process between Woodard & Curran and the applicant's engineer, LandTech Consultants (LTC).

The following summary represents the information submitted by the Applicant and review by our office. Items in bold reflect the most recent submitted material:

- Site Plans entitled *Asphalt Manufacturing Facility – 540 Groton Road (Route 40) – Westford, Massachusetts*, prepared by LandTech Consultants, dated April 6, 2009, revised July 31, 2009 and **October 30, 2009**.
- Supplemental Data Report for Asphalt Manufacturing Facility, prepared by LandTech Consultants, dated April 6, 2009.
- Appendix G – Stormwater Report for Asphalt Manufacturing Facility, prepared by LandTech Consultants, dated April 6, 2009, revised July 31, 2009 and **October 27, 2009**.
- **Stormwater Operation & Maintenance Plan (SWPPP)**, prepared by LandTech Consultants, dated **October 27, 2009**.



### **Peer Review Chronology**

Woodard & Curran met with LTC on July 14, 2009 to discuss our initial peer review comments issued to the Board on July 2, 2009. Following the July 14, 2009 meeting, a revised plan set and stormwater report was submitted to our office dated July 31, 2009. Woodard & Curran reviewed the documents and met with LTC and Westford Town Engineer, Paul Starrat, on August 12, 2009 to review additional outstanding items relative to the July 31, 2009 submission. Woodard & Curran prepared a letter dated August 14, 2009 relative to the July submission. A revised plan set and stormwater report was submitted to our office dated October 30, 2009. This letter summarizes our firm's peer review comments on the project plans and supporting materials relevant to the topics within our review scope of work. Our comments are grouped by Outstanding Technical Items and our Overall Project Recommendations.

### **Outstanding Technical Items**

LTC has addressed our technical comments highlighted in our August 14, 2009 letter.

### **Overall Project Recommendations**

If a positive decision for the project is granted, the following recommendations should be considered by the Board for incorporation into the conditions.

1. The operations and maintenance plan should be recorded with the decision and provided to the Town Engineer.
2. The annual compliance status report documenting stormwater inspections shall be performed by a Registered Professional Engineer and be submitted to the Planning Board and Town Engineer.
3. Once the contractor is selected, the USEPA Notice of Intent (NOI) for construction activities regulated under the Construction General Permit and Stormwater Pollution Prevention Plan should be provided to the Town Engineer prior to the start of construction.
4. Once the contractor is selected, a construction schedule should be provided to the Town for review. This schedule should be updated on a monthly basis and should address the implementation of erosion control measures during the course of construction.
5. As a condition of approval, the applicant should not be allowed to pave any additional areas on-site without prior approvals from the Town of Westford.
6. An asphalt plant with a point source discharge to a navigable water body must submit a Notice of Intent (NOI) to the USEPA sixty days prior to discharge in accordance with Sector D (Asphalt Paving and Roofing Materials and Lubricant Manufacturers) of USEPA's Multi Sector General Permit for Industrial Activities (MSGP). Prior to submitting the NOI, the facility must prepare an industrial stormwater pollution prevention plan (SWPPP) that describes potential pollutant sources; structural and non-structural best management practices (BMPs); and other stormwater management procedures such as preventive maintenance, good housekeeping, pollution prevention team, spill prevention and response, training, monthly visual inspections, record-keeping, and reporting. It is recommended that this NOI be submitted as draft to the Town for review prior to submission to the USEPA.
7. For oil Spill Prevention, Control, and Countermeasure (SPCC) plans, any facility that has an oil storage capacity of 1,320 gallons or greater must prepare an SPCC plan. Since the capacity of the No. 2 fuel Oil storage tank is 10,000 gallons, a SPCC plan is required. It is





recommended that a copy of the SPCC plan be provided to the Board and Town Engineer prior to commencement of the asphalt operations.

8. As a condition of approval, LTC should provide documentation from the Board of Health confirming that the means of handling waste at the asphalt skid plant is acceptable.
9. As a condition of approval, a report documenting the sizing of the fire protection cistern should be prepared by a registered fire protection engineer and submitted to the Board. The fire chief should provide comments relative to the cistern and fire alarm system prior to the start of construction.
10. Woodard & Curran recommends that LTC provide the Board with copies of the fiscal analysis prepared by the applicant prior to approval.
11. Woodard & Curran recommends that LTC provide the Board with correspondence relative to the 40-foot maximum height allowance from the Building Inspector.

### **Conclusion**

The comments and recommendations above are based upon the review of the information provided for the Proposed Asphalt Manufacturing Facility. At this time we have no outstanding items with the project plans reviewed as outlined in our scope of work. Please do not hesitate to call if you have any questions or require additional information.

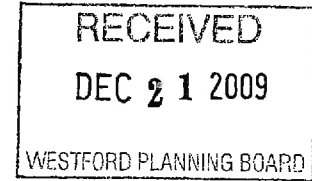
Sincerely,  
WOODARD & CURRAN, INC.

John J. Borgesi, P.E.  
Project Manager

Jeff Stearns, P.E.  
Project Engineer

9-2  
DESCHENES & FARRELL, P.C.

Attorneys at Law  
The Fiske House at Central Square  
One Billerica Road  
Chelmsford, MA 01824-3010  
Telephone: (978) 250-8877  
Facsimile: (978) 250-0057



Douglas C. Deschenes  
Kathryn Lorah Farrell

December 11, 2009

Anthony J. Natola  
Julie A. McNeill  
Melissa E. Robbins  
Kevin S. Eriksen  
Of Counsel:  
Natasha Ramsingh\*  
\*Licensed in FL & MA

Westford Building Department  
Matthew Hakala  
55 Main Street  
Westford, MA 01886

RE: 540 Groton Road; Current Uses

Dear Mr. Hakala,

As you are aware this office represents Newport Materials regarding their pending application for an Asphalt Manufacturing Facility at 540 Groton Road. The question has been raised as to what the current uses on the site are, historically the Site has been used by various Corporations for the quarrying of granite, stone and soil, and other ancillary operations, such as cutting, polishing, blasting, crushing, burning of stone, trucking, tree cutting, and land and earth clearing and removal, as well as the wholesale and retail sale of materials and stone.<sup>1</sup> Some portions of the site are also being used by LM Holdings as a contractor yard, office, and storage location for materials related to highway construction. This use was previously controlled by Modern Continental as part of the Route 3 expansion project.

Futhermore, the site is currently operating a materials processing operation under a Special Permit from the Zoning Board of Appeals. This permit allows for the processing of stone, concrete, bricks, asphalt and wood.

Current uses on the site include:

1. A loam processing operation that is screening and removing loam previously brought to the site from the Route 3 expansion project.
2. A stone wall company that sorts and sells rocks and stones and provides rock wall construction services. This use also has a small office component.

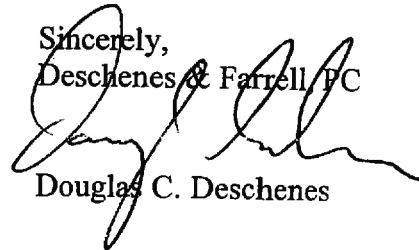
<sup>1</sup> Please see document entitled "Greystone Estates Subdivision Declaration and Covenant" dated August 30, 1996 recorded with the Middlesex North Registry of Deeds in Book 8719 Page 118, which states that the uses at the quarrying operations on the portion of the site in Westford are taking place and will continue to take place in conjunction with the quarrying operations.

3. A wood processing operation which processes (grinds) log and stumps. The resulting materials are then trucked off-site.

Lastly, during the summer and fall of 2009, clean soil had been trucked onto the site and has been used to elevate certain areas of the site which had been lowered by historic quarry and soil excavation on the site. Additionally, some of this material has been stockpiled on the site; this activity is temporary and is currently sporadic.

Please contact me should you require any further information regarding this matter.

Sincerely,  
Deschenes & Farrell PC

A handwritten signature in black ink, appearing to read 'Doug Deschenes', written over the typed name.

Douglas C. Deschenes

cc:

Westford Board of Health  
Westford Planning Board

**DESCHENES & FARRELL, P.C.**

Attorneys at Law  
The Fiske House at Central Square  
One Billerica Road  
Chelmsford, MA 01824-3010  
Telephone: (978) 250-8877  
Facsimile: (978) 250-0057

*Douglas C. Deschenes  
Kathryn Lorah Farrell*

March 18, 2010

Town of Westford Planning Board  
55 Main Street  
Westford, MA 01886

Via mail and E-Mail

Attn: Ross Altobelli

**RE: Newport Asphalt Manufacturing Facility, 540 Groton Road;  
Information Submission**

Dear Ross,

Attached please find answers to the e-mail written by Don Boesel dated February 28, 2010 relative to the above referenced Project. Please note that I have tried to address Mr. Boesel's questions in the order that they were asked.

Please include this information into the Planning Board's packages for the upcoming meeting. Please call with any comments or questions you may have. Thank you for your time and consideration.

Sincerely,  
Deschenes & Farrell, PC

  
Douglas C. Deschenes

*Anthony J. Natola  
Julie A. McNeill  
Melissa E. Robbins  
Kevin S. Eriksen  
Of Counsel:  
Natasha Ramsingh\*  
\*Licensed in FL & MA*

## Answers:

1. There is no rail traffic proposed relative to the Project.
2. The truck traffic associated with materials needed for the production of asphalt, including aggregate, sand, RAP, and liquid asphalt, along with fuel trucks, has been included in the traffic studies provided for the Project. Additionally, despite the fact that we expect a fair amount of material will be obtained from the quarry next door and will be delivered via roadways internal to the site, for analysis purposes we have provided traffic data assuming that 100% of such material will be brought to the facility from offsite locations via the adjacent roadways.
3. The largest truck to be utilized is actually a truck-trailer combination. It has a gross weight of 100,000 lbs. And has a net weight of 64,000 – 70,000 lbs. There are no axle limitations.
4. All trucks, once in the facility area will be required to shut down their engines while waiting to pick up material.
5. Material to be obtained from Fletcher's Quarry is aggregate. It is actually crushed stone of various sizes depending on the asphalt specifications. It is not a scrap material and is not recycled material. It is a processed material generated by crushing stone into defined sizes.
6. There is no "obligation" or requirement that 50% of the needed aggregate will be obtained from Fletchers. As such, traffic calculations have been provided assuming that all material will be brought in from off-site via adjacent roadways.
7. With respect to expected truck traffic from material deliveries, please see the Traffic Reports done by GPI dated April 3, 2009 (assumes 50% from Fletchers) and the Traffic Report done by GPI dated July 16, 2009 (assumes 100% outside sources). These reports are available through the Westford Planning Board office. Additionally, please note that in one (1) ton of asphalt there is approximately 1000 lbs. of aggregate (50%), 500 lbs. of RAP (26%), 400 lbs. of sand (20%) and 100 lbs. of liquid asphalt (4%).
8. There will be up to three (3) trucks per operating day delivering liquid asphalt. These trucks will make their deliveries between the hours of 6:00 a.m. and 3:00 p.m. These trucks will have weights similar to those discussed in #3 above. All such trucks are governed by the Department of Transportation regulations.
9. While RAP (recycled asphalt pavement) is part of the asphalt production process, this material will be supplied from an existing processing operation on the site. To the extent this supply is not available, it will be brought in via truck. However, in many instances these trucks will come in to deliver RAP material and then leave with finished asphalt product. In this scenario, we will employ a

system of double-hauling to reduce truck traffic as it is also more cost effective for the operators.

10. The truck types to be utilized in the proposed operation have been identified in the traffic studies previously referenced.
11. The proposed facility has no scrubbers and so it does not generate waste from cleaning scrubbers or any other parts of the equipment. All "waste" generated by the operation, with the exception of "household type" trash, is actually injected back into the processing operation and so recycled. Household type trash will be disposed of in a dumpster or similar receptacle.
12. The vast majority of the trucks accessing and leaving the facility do so via Rt-3. In permitting the existing processing plant at 540 Groton Road, it was agreed that Newport would require the trucks to turn left as they exit the facility to minimize trucks utilizing the Oak Hill Road intersection and traveling through town. Because 70 - 80% of all trucks utilizing the existing and proposed facility are under the control of Newport, they have and will continue to require a left turn at exit only. Non-Newport trucks are also required to adhere to this rule and if they do not, will not be allowed to utilize the facility. However, it is possible that there will be a limited number of trucks either entering from the west or returning to locations to the west of the site.
13. Please refer to the previous traffic studies (referenced above), conducted relative to truck traffic entering and leaving the facility. These reports include information regarding delivery of materials and trucking of finished asphalt product.
14. There will be no refueling, cleaning or storage of trucks at the asphalt facility. Newport trucks are housed at a facility in Nashua, New Hampshire and are fueled in that area.



Deval L. Patrick  
GOVERNOR

Timothy P. Murray  
LIEUTENANT GOVERNOR

Ian A. Bowles  
SECRETARY

*The Commonwealth of Massachusetts*  
*Executive Office of Energy and Environmental Affairs*  
100 Cambridge Street, Suite 900  
Boston, MA 02114

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JAN 15 2010

WESTFORD PLANNING BOARD

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January 13, 2010

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JFK Environmental Services, LLC  
115 Glen Avenue  
Upton, MA 01568

Peter Shanahan  
HydroAnalysis, Inc.  
481 Great Road, Suite 3  
Acton, MA 01720

Alisa Nakashian-Holsberg  
Route 40 Clean Air Coalition  
PO Box 1240  
Westford, MA 01886

Re: Petition for Fail-Safe Review  
Proposed Asphalt Manufacturing Facility - 540 Groton Road (Route 40), Westford

Dear Ms. Knott, Mr. Shanahan, and Ms. Nakashian-Holsberg:

On behalf of Secretary Ian Bowles, I am writing in response to your Petition for Fail-Safe Review dated November 9, 2009 (and received by this office on November 24, 2009) in which you requested that I require review under the Massachusetts Environmental Policy Act, M.G.L. c. 30, ss. 61-62I (MEPA), for the Project referenced above. For the reasons set forth below, I find that no MEPA review is required for the proposed Project at this time.

As described in the Conditional Approval of an Air Quality Non-Major Comprehensive Plan issued by the Massachusetts Department of Environmental Protection (MassDEP) on September 18, 2009, the Project entails the construction of a bituminous concrete production facility, including a hot mix asphalt drum mix plant, a hot oil heater, oil and asphalt storage tanks, and a rock crushing plant. The proposed facility will be constructed on a site that was part of a rock quarry operation, but that did not previously include similar equipment or processes. In

addition to the Approval of an Air Quality Non-Major Comprehensive Plan, the Project required review by the Massachusetts Division of Fisheries and Wildlife (DFW) Natural Heritage and Endangered Species Program (NHESP) under the Massachusetts Endangered Species Act (MESA). The Project was issued Orders of Resource Area Delineation (ORADs) by the Westford Conservation Commission on September 18, 2008, and by the Chelmsford Conservation Commission on June 10, 2008, neither of which were appealed. Based on the information presented to me, it does not appear that the Project requires any other State Agency permits, nor is the Proponent seeking financial assistance or a land transfer from the Commonwealth.

In accordance with the MEPA regulation at 301 CMR 11.04(2), after receiving your petition, the MEPA Office requested that Newport Materials, LLC ("the Proponent") respond to the petition by December 24, 2009. A response submitted on behalf of the Proponent by LandTech Consultants was received on that date. Additionally, the MEPA Office consulted with the MassDEP Northeast Regional Office and with NHESP regarding the environmental impacts of and permitting requirements for this Project. Accordingly, your petition, the Proponent's response, and consultation with the environmental permitting agencies were considered in this decision.

As a preliminary matter, I note that MEPA review would ordinarily be required under the MEPA regulations if the proposed Project met or exceeded any of the review thresholds at 301 CMR 11.03, provided that the subject matter of at least one applicable review threshold was within the subject matter of any of the required state Permits for this Project. See 301 CMR 11.03. However, based on the information before me, I find that the Project does not appear to meet or exceed any MEPA review thresholds at 301 CMR 11.03 for the following reasons:

- As noted above, the only required State Permits (as defined in the MEPA regulations) for the proposed Project are the Approval of a Non-Major Comprehensive Plan by MassDEP and, potentially, a Conservation and Management Permit from NHESP.
- The MEPA review thresholds pertaining to Air at 301 CMR 11.03(8) apply only to a new "major stationary source", and the Project in question is a non-major stationary source. Moreover, in its Conditional Approval of the Project's Air Quality Non-Major Comprehensive Plan Application, MassDEP determined that the filing of an ENF was not required for air quality purposes.
- Additionally, in a letter dated September 9, 2008, NHESP determined that the Proponent's proposal to conduct earth-moving and grading work at the Project site would not result in a "take" of state-listed species. I note that, while the Project Site is located partially within Priority Habitat for Rare Species and Estimated Habitat for Rare Wildlife and is approximately two acres in size (your petition contends that it is 2.2 acres while the Proponent's response states that it is 1.8 acres), it is devoid of vegetation because it has been previously disturbed and, as such, does not contain designated significant habitat. Therefore, the Project does not currently appear to meet or exceed MEPA review thresholds pertaining to Rare Species. (However, see discussion below concerning additional required review by NHESP).
- Lastly, your petition contends that stormwater and/or wastewater discharges from the Project may impact an Outstanding Resource Water (ORW). However, as indicated in your petition and confirmed by the Proponent in its response, the Project will not result in



direct discharges to an ORW. Therefore, the Project does not appear to exceed any MEPA review thresholds pertaining to Wetlands and/or Wastewater, nor does it require any State Agency permits related to this aspect of the Project.

I am aware that your petition states that NHESP did not review the proposed asphalt manufacturing facility, and that its determination that the Project would not result in a "take" was based on proposed earth-moving and grading work on the Project site. In consultations with the MEPA Office, NHESP has confirmed that the manufacturing facility was not previously reviewed and that additional review is required. Therefore, the Proponent must submit another filing to NHESP that describes the proposed asphalt manufacturing facility in order to for it determine whether the Project, as proposed, would result in a "take." If NHESP does determine at a future date that the Project will result in a prohibited "take" of protected species, then MEPA review in the form of an ENF may be required because the Project would require a State Agency Action (in this case, a Conservation and Management Permit) and review threshold(s) pertaining to Rare Species may be met or exceeded, depending on the extent of disturbance of designated priority habitat. However, I note that the Proponent, in its response to the Petition, claims that while a portion of the Project site is located within Priority Habitat for Rare Species, it includes only drainage swales, an infiltration basin, and an earthen sound berm, and not the actual asphalt production facility, aggregate stockpiles, materials processing yard, and pre-treatment drainage structures.

Accordingly, I find that the Project does not require MEPA review at this time based upon the application of review thresholds. In that case, the Project is not subject to MEPA review unless I invoke fail-safe review under the applicable provisions of the MEPA regulations. The MEPA regulations at 301 CMR 11.04(1) state that "Upon written petition by...ten or more Persons...the Secretary may require a Proponent to file an ENF (Environmental Notification Form) or undergo other MEPA review for a proposed...Project that does not meet or exceed any review thresholds unless all Agency Actions for the Project have been taken, provided that the Secretary finds in the decision on the petition or initiative that:

- o (a) the Project is subject to MEPA jurisdiction;
- o (b) the Project has the potential to cause Damage to the Environment and the potential Damage to the Environment either:
  - 1. could not reasonably have been foreseen prior to or when 301 CMR 11.00 was promulgated; or
  - 2. would be caused by a circumstance or combination of circumstances that individually would not ordinarily cause Damage to the Environment; and
- o (c) requiring the filing of an ENF and other compliance with MEPA and 301 CMR 11.00:
  - 1. is essential to avoid or minimize Damage to the Environment; and
  - 2. will not result in an undue hardship for the Proponent."

As noted above, it appears likely that all State Agency Actions required by the Project have been taken. Wetlands issues have been reviewed through the local Conservation

Commissions and those decisions were not appealed to MassDEP, so there will be no state Agency Action with respect to wetlands issues. MassDEP has issued its Conditional Approval of the Project's Non-Major Comprehensive Plan Application. I am aware that this Conditional Approval has been appealed by a group of citizens. However, unless that Approval is ultimately overturned on appeal, it does at this time represent a final Agency Action for the purposes of MEPA. In accordance with MassDEP rules governing adjudicatory proceedings, a pre-screening conference was scheduled for January 12, 2010, and a hearing is scheduled for April 6, 2010. In addition, if NHESP once again determines that there is no "take" of protected species, then there is no further Agency Action applicable to the Project, and in that case Fail-Safe review is not available under the regulations. I therefore find that unless the Project requires additional Agency Action beyond what is currently anticipated, such as an amended Comprehensive Plan Approval, a Conservation and Management Permit, or other new Permit or Financial Assistance from the State, Fail-Safe review is unavailable under the applicable regulations and no MEPA review is required.

In the event that future Agency Actions are required for this Project, fail-safe review would be available under the regulations. However, while the Fail-Safe provisions are intended to allow for MEPA review of projects that do not meet or exceed review thresholds, all of the requirements of 301 CMR 11.04(1), noted above, must be met. Based upon the record before me today, I find that the Project is unlikely to meet the standards for invocation of fail-safe review at 301 CMR 11.04(1) for the following reasons:

- Based on the fact that the Project requires Approval of an Air Quality Non-Major Comprehensive Plan by MassDEP, I find that the Project is subject to MEPA jurisdiction.
- I also find that the Project has the potential to cause Damage to the Environment, as generally defined in the MEPA regulations. However, based on the information presented, I cannot find that this potential Damage to the Environment either could not reasonably have been foreseen prior to or when 301 CMR 11.00 was promulgated or would be caused by a circumstance or combination of circumstances that individually would not ordinarily cause Damage to the Environment. To the point, MassDEP has a well-established permitting (and appeals) process in place to review the environmental impacts of this type of project, and the Project in question is by no means the first of its kind in Massachusetts.
- Additionally, on the record currently before me, I cannot find that requiring the filing of an ENF and other compliance with MEPA and 301 CMR 11.00 is essential to avoid or minimize Damage to the Environment. As stated above, MassDEP's Conditional Approval of the Project's Air Quality Non-Major Comprehensive Plan Application has been appealed and a process is now underway to ensure that the concerns of the appellants are considered. Wetlands impacts have already been addressed through review by the local Conservation Commissions and NHESP will review potential impacts to rare species. I find that these permitting processes, which are common for projects such as this, are sufficient to ensure that Damage to the Environment is avoided and minimized. Additionally, I note that while the Department of Public Health (DPH) submitted two letters to the Town of Westford on June 26 and August 3, 2009 voicing its concerns regarding the Project, the Proponent responded to DPH's letters to the Town of Westford

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by conducting significant additional modeling, beyond what is required under the Air Pollution Control regulations (310 CMR 7.00). Based on its review of this additional air quality modeling, MassDEP issued its Conditional Approval of the Air Quality Non-Major Comprehensive Plan for the Project and responded directly to the comments raised by DPH in this matter. It therefore appears that these concerns have been sufficiently addressed through MassDEP's permitting process and that MEPA is not therefore essential to avoid or minimize potential impacts.

Based on my findings above that the Fail-Safe Petition did not meet all of the conditions at 301 CMR 11.04(1), I must conclude that the Project does not require review under MEPA, subject to the qualifications noted above. Therefore, the submission of an ENF is not required at this time. Please contact Richard Bourré, Assistant Director of the MEPA Office at (617) 626-1130 if you have any additional questions.

Sincerely,



Alicia Barton McDevitt  
Assistant Secretary

Cc: Susan Ruch, MassDEP Northeast Regional Office

Jon Regosin DFW-NHESP

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*Douglas C. Deschenes  
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March 31, 2010

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Melissa E. Robbins  
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Of Counsel:  
Natasha Ramsingh\*  
\*Licensed in FL & MA*

Town of Westford Planning Board  
55 Main Street  
Westford, MA 01886  
Attn: Ross Altobelli

Via mail and E-Mail

**RE: Newport Asphalt Manufacturing Facility, 540 Groton Road;  
Mitigation/Concession Proposal**

Dear Ross,

I am writing to provide the Board a listing of the proposed mitigation and concessions my client is proposing associated with the above referenced project. As is customary in Westford, my client is offering the mitigation discussed below as a voluntary gift to the Town to offset impacts to the community of the proposed project should it be approved with reasonable conditions. Also below, please find a discussion of concessions my client is proposing to address other concerns raised during the permitting process.

During the course of the permitting process there have been concerns raised regarding the Project's impacts on local roadways, fire safety issues and the impact of increased truck traffic. As you will see, the mitigation proposed is directly related to these concerns. With regard to mitigation, my client is proposing the following:

1. Provide to the Westford Police Department a fully equipped Sport Utility Vehicle (including scales) to support the operation of a "Truck Team" to monitor and inspect trucks traveling within Westford. We have previously discussed creation of such a team with the Chief and have determined that training is currently available to the Department for this type of activity. It is estimated that this vehicle and equipment will cost approximately \$75,000.00.
2. Provide the Westford Fire Department with a Foam Cart (foam dispensing fire fighting apparatus) and associated supplies. This

equipment can be stored at the 540 Groton Road site or at a location to be determined by the Fire Department. In any event, the equipment will be readily available to the Department for use in fighting fires at any location requiring it. The approximate value of this equipment is \$50,000.00.

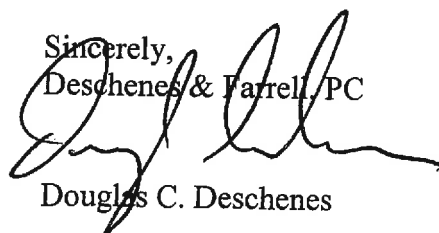
3. Provide to the Town of Westford labor and materials to pave one (1) mile of roadway within the Town of Westford each year for every year the plant operates. This represents a significant increase over the paving the Town currently budgets for annually. The approximate value of this labor and material is \$200,000.00 per year.
4. Provide to the Westford Highway Department One Hundred (100) tons of patching material each year that the plant operates, F.O.B. 540 Groton Road, for use by the Department for roadway patching. The value of this material is approximately \$10,000.00.

With regard to concessions, the following are changes my client would propose relative to the original permitting requests. Again, these concessions are meant to be a direct response to issues raised during the permitting process.

1. **Hours of Operation:** Hours of operation would be limited to 6:00 a.m. to 7:00 p.m. There would be no night operations (i.e. no production or trucking operations between 7:00 p.m. and 6:00 a.m.). This would not only eliminate truck traffic at night but would also reduce our emissions (as calculated based on 24 hour operations) in half.
2. **Odor Control:** Additional odor control equipment will be added to the loading operation that will help to eliminate any odors resulting from the loading of material into trucks. Additionally, odor control additives will be added to the processing operation that will eliminate the asphalt odor from the finished materials thus eliminating odor not only from the processing operation but also from the trucks transporting the material. While this is a costly endeavor, it will eliminate odors. The specifications for the odor control additive are being provided to the Planning Board.

Please include this information into the Planning Board's packages for the upcoming meeting. Please call with any comments or questions you may have. Thank you for your time and consideration.

Sincerely,  
Deschenes & Farrell, PC



Douglas C. Deschenes



Message

Thu, Apr 01, 2010 12:08 PM

From: Doug Deschenes <Doug@dfpclaw.com>  
To: rbarrett@westford.mec.edu **Ross Altobelli**

Subject: mitigation questions

Attachments: Attach0.html

2K

Ross, to provide further details on the proposed mitigation by Newport Materials and more specifically the proposed paving and materials contribution, please accept the following:

The mile of pavement will include 1 1/2 inches of pavement up to 28' wide for a mile. This will include adjusting structures, applying a "tack coat" and sweeping as necessary.

With regard to the patch material, it is Mass Highway Standard # 460 material. I understand this is not the specialized patch material Chip uses. Rick said most towns use this stuff and feels Chip would have uses for it.....

I have a trial this afternoon and so will be out. We can talk Friday....

Also whereas yesterday was the deadline for submittals, did BOH submit anything? was anything submitted by anyone other than us???.....Thanks.....doug